



March 15, 2013

ENGROSSED HOUSE BILL No. 1053

DIGEST OF HB 1053 (Updated March 12, 2013 11:38 am - DI 106)

Citations Affected: IC 4-13; IC 10-13; IC 11-8; IC 12-24; IC 16-21; IC 16-25; IC 16-27; IC 20-28; IC 22-5; IC 29-3; IC 31-19; IC 31-30; IC 31-34; IC 31-35; IC 31-37; IC 33-37; IC 33-39; IC 35-31.5; IC 35-38; IC 35-42; IC 35-47; IC 35-49; IC 35-50; IC 36-2.

Synopsis: Sex offenses and sex offenders. Requires the department of correction to remove from the public portal of the sex offender registry the information relating to a sex or violent offender who is deceased or no longer required to register. Requires persons convicted of kidnapping or criminal confinement to register if the victim is less than 18 years of age, unless a court finds that the offense was not committed for a sexual purpose. Adds the vehicle identification number of the vehicle owned or regularly operated by the offender to the information required for sex offender registration, requires an offender to report certain information changes within 72 hours, and provides that an offender's driver's license or identification card must contain the offender's current address and physical description. Provides that an offender who is scheduled to move must register in the appropriate location within 72 hours. Removes the requirement that a local law
(Continued next page)

Effective: July 1, 2013.

Steuerwald, Dermody, Lawson L

(SENATE SPONSORS — STEELE, YOUNG R MICHAEL, ARNOLD J,
HUME, RANDOLPH)

January 7, 2013, read first time and referred to Committee on Courts and Criminal Code.
February 14, 2013, amended, reported — Do Pass.
February 18, 2013, read second time, amended, ordered engrossed.
February 19, 2013, engrossed. Read third time, passed. Yeas 91, nays 0.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Corrections and Criminal Law.
March 14, 2013, amended, reported favorably — Do Pass.

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enforcement authority contact offenders by mail and permits local law enforcement authorities to contact the offenders in a manner approved by the department of correction. Makes it possession of child pornography, a Class D felony, for a person to knowingly or intentionally possess certain items that: (1) depict or describe sexual conduct by a child who the person knows is less than 18 years of age or who appears to be less than 18 years of age; and (2) lacks serious literary, artistic, political, or scientific value. Makes knowingly or intentionally: (1) sending or bringing into Indiana obscene matter for sale or distribution; or (2) offering to distribute, distributing, or exhibiting to another person obscene matter; a Class D felony instead of a Class A misdemeanor if the obscene matter depicts or describes sexual conduct involving any person who is or appears to be under 18 years of age. Makes knowingly or intentionally engaging in, participating in, managing, producing, sponsoring, presenting, exhibiting, photographing, filming, or videotaping any obscene performance a Class D felony instead of a Class A misdemeanor if the obscene performance depicts or describes sexual conduct involving any person who is or appears to be under 18 years of age. Merges the offense of criminal deviate conduct into the crime of rape and repeals the criminal deviate conduct statute. Makes conforming amendments and technical corrections. (The introduced version of this bill was prepared by the criminal law and sentencing policy study committee).

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March 15, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1053

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-13-2-14.7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14.7. A person
3 employed, appointed, or under contract with a state agency, who works
4 with or around children, shall be dismissed (after the appropriate
5 pre-deprivation procedure has occurred) if that person is, or has ever
6 been, convicted of any of the following:
7 (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
8 years of age.
9 (2) Criminal deviate conduct (IC 35-42-4-2) (**for an act**
10 **committed before its repeal**), if the victim is less than eighteen
11 (18) years of age.
12 (3) Child molesting (IC 35-42-4-3).
13 (4) Child exploitation (IC 35-42-4-4(b)).
14 (5) Vicarious sexual gratification (IC 35-42-4-5).
15 (6) Child solicitation (IC 35-42-4-6).
16 (7) Child seduction (IC 35-42-4-7).
17 (8) Sexual misconduct with a minor as a Class A or **Class B**

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- 1 felony (IC 35-42-4-9).
 2 (9) Incest (IC 35-46-1-3), if the victim is less than eighteen (18)
 3 years of age.
 4 SECTION 2. IC 10-13-3-27, AS AMENDED BY P.L.48-2012,
 5 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2013]: Sec. 27. (a) Except as provided in subsection (b), on
 7 request, a law enforcement agency shall release a limited criminal
 8 history to or allow inspection of a limited criminal history by
 9 noncriminal justice organizations or individuals only if the subject of
 10 the request:
 11 (1) has applied for employment with a noncriminal justice
 12 organization or individual;
 13 (2) has:
 14 (A) applied for a license or is maintaining a license; and
 15 (B) provided criminal history data as required by law to be
 16 provided in connection with the license;
 17 (3) is a candidate for public office or a public official;
 18 (4) is in the process of being apprehended by a law enforcement
 19 agency;
 20 (5) is placed under arrest for the alleged commission of a crime;
 21 (6) has charged that the subject's rights have been abused
 22 repeatedly by criminal justice agencies;
 23 (7) is the subject of a judicial decision or determination with
 24 respect to the setting of bond, plea bargaining, sentencing, or
 25 probation;
 26 (8) has volunteered services that involve contact with, care of, or
 27 supervision over a child who is being placed, matched, or
 28 monitored by a social services agency or a nonprofit corporation;
 29 (9) is currently residing in a location designated by the
 30 department of child services (established by IC 31-25-1-1) or by
 31 a juvenile court as the out-of-home placement for a child at the
 32 time the child will reside in the location;
 33 (10) has volunteered services at a public school (as defined in
 34 IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12)
 35 that involve contact with, care of, or supervision over a student
 36 enrolled in the school;
 37 (11) is being investigated for welfare fraud by an investigator of
 38 the division of family resources or a county office of the division
 39 of family resources;
 40 (12) is being sought by the parent locator service of the child
 41 support bureau of the department of child services;
 42 (13) is or was required to register as a sex or violent offender

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1 under IC 11-8-8;

2 (14) has been convicted of any of the following:

3 (A) Rape (IC 35-42-4-1), if the victim is less than eighteen
4 (18) years of age.

5 (B) Criminal deviate conduct (IC 35-42-4-2) (**repealed**), if the
6 victim is less than eighteen (18) years of age.

7 (C) Child molesting (IC 35-42-4-3).

8 (D) Child exploitation (IC 35-42-4-4(b)).

9 (E) Possession of child pornography (IC 35-42-4-4(c)).

10 (F) Vicarious sexual gratification (IC 35-42-4-5).

11 (G) Child solicitation (IC 35-42-4-6).

12 (H) Child seduction (IC 35-42-4-7).

13 (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

14 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen
15 (18) years of age.

16 (K) Attempt under IC 35-41-5-1 to commit an offense listed in
17 clauses (A) through (J).

18 (L) Conspiracy under IC 35-41-5-2 to commit an offense listed
19 in clauses (A) through (J).

20 (M) An offense in any other jurisdiction in which the elements
21 of the offense for which the conviction was entered are
22 substantially similar to the elements of an offense described
23 under clauses (A) through (J);

24 (15) is identified as a possible perpetrator of child abuse or
25 neglect in an assessment conducted by the department of child
26 services under IC 31-33-8; or

27 (16) is:

28 (A) a parent, guardian, or custodian of a child; or

29 (B) an individual who is at least eighteen (18) years of age and
30 resides in the home of the parent, guardian, or custodian;

31 with whom the department of child services or a county probation
32 department has a case plan, dispositional decree, or permanency
33 plan approved under IC 31-34 or IC 31-37 that provides for
34 reunification following an out-of-home placement.

35 However, limited criminal history information obtained from the
36 National Crime Information Center may not be released under this
37 section except to the extent permitted by the Attorney General of the
38 United States.

39 (b) A law enforcement agency shall allow inspection of a limited
40 criminal history by and release a limited criminal history to the
41 following noncriminal justice organizations:

42 (1) Federally chartered or insured banking institutions.

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1 (2) Officials of state and local government for any of the
2 following purposes:

3 (A) Employment with a state or local governmental entity.

4 (B) Licensing.

5 (3) Segments of the securities industry identified under 15 U.S.C.
6 78q(f)(2).

7 (c) Any person who knowingly or intentionally uses limited criminal
8 history for any purpose not specified under this section commits a
9 Class A misdemeanor.

10 SECTION 3. IC 11-8-2-13, AS AMENDED BY P.L.216-2007,
11 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2013]: Sec. 13. (a) The Indiana sex and violent offender
13 registry established under IC 36-2-13-5.5 and maintained by the
14 department under section 12.4 of this chapter must include the names
15 of each offender who is or has been required to register under
16 IC 11-8-8.

17 (b) The department shall do the following:

18 (1) Ensure that the Indiana sex and violent offender registry is
19 updated at least once per day with information provided by a local
20 law enforcement authority (as defined in IC 11-8-8-2).

21 (2) Publish the Indiana sex and violent offender registry on the
22 Internet through the computer gateway administered by the office
23 of technology established by IC 4-13.1-2-1, and ensure that the
24 Indiana sex and violent offender registry displays the following or
25 similar words:

26 "Based on information submitted to law enforcement, a
27 person whose name appears in this registry has been
28 convicted of a sex or violent offense or has been adjudicated
29 a delinquent child for an act that would be a sex or violent
30 offense if committed by an adult."

31 (3) If:

32 (A) an offender's registration period has expired as
33 described in IC 11-8-8-19; or

34 (B) an offender is deceased;

35 ensure that the offender's information is no longer published
36 to the public portal of the sex and violent offender registry
37 Internet web site established under IC 36-2-13-5.5.

38 SECTION 4. IC 11-8-8-4.5, AS AMENDED BY P.L.72-2012,
39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2013]: Sec. 4.5. (a) Except as provided in section 22 of this
41 chapter, as used in this chapter, "sex offender" means a person
42 convicted of any of the following offenses:

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- 1 (1) Rape (IC 35-42-4-1).
 2 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
 3 (3) Child molesting (IC 35-42-4-3).
 4 (4) Child exploitation (IC 35-42-4-4(b)).
 5 (5) Vicarious sexual gratification (including performing sexual
 6 conduct in the presence of a minor) (IC 35-42-4-5).
 7 (6) Child solicitation (IC 35-42-4-6).
 8 (7) Child seduction (IC 35-42-4-7).
 9 (8) Sexual misconduct with a minor as a Class A, Class B, or
 10 Class C felony (IC 35-42-4-9), unless:
 11 (A) the person is convicted of sexual misconduct with a minor
 12 as a Class C felony;
 13 (B) the person is not more than:
 14 (i) four (4) years older than the victim if the offense was
 15 committed after June 30, 2007; or
 16 (ii) five (5) years older than the victim if the offense was
 17 committed before July 1, 2007; and
 18 (C) the sentencing court finds that the person should not be
 19 required to register as a sex offender.
 20 (9) Incest (IC 35-46-1-3).
 21 (10) Sexual battery (IC 35-42-4-8).
 22 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 23 (18) years of age, **and the person who kidnapped the victim is not**
 24 **the victim's parent or guardian: unless the court finds that the**
 25 **offense was not committed for a sexual purpose.**
 26 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 27 than eighteen (18) years of age, **and the person who confined or**
 28 **removed the victim is not the victim's parent or guardian: unless**
 29 **the court finds that the offense was not committed for a sexual**
 30 **purpose.**
 31 (13) Possession of child pornography (IC 35-42-4-4(c)).
 32 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
 33 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the
 34 victim is less than eighteen (18) years of age.
 35 (16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
 36 (17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less
 37 than eighteen (18) years of age.
 38 (18) Sexual misconduct by a service provider with a detained
 39 child (~~IC 35-44-1-5(c)~~). **(IC 35-44.1-3-10(c))**.
 40 (19) An attempt or conspiracy to commit a crime listed in
 41 subdivisions (1) through (18).
 42 (20) A crime under the laws of another jurisdiction, including a

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1 military court, that is substantially equivalent to any of the
2 offenses listed in subdivisions (1) through (19).

3 (b) The term includes:

4 (1) a person who is required to register as a sex offender in any
5 jurisdiction; and

6 (2) a child who has committed a delinquent act and who:

7 (A) is at least fourteen (14) years of age;

8 (B) is on probation, is on parole, is discharged from a facility
9 by the department of correction, is discharged from a secure
10 private facility (as defined in IC 31-9-2-115), or is discharged
11 from a juvenile detention facility as a result of an adjudication
12 as a delinquent child for an act that would be an offense
13 described in subsection (a) if committed by an adult; and

14 (C) is found by a court by clear and convincing evidence to be
15 likely to repeat an act that would be an offense described in
16 subsection (a) if committed by an adult.

17 (c) In making a determination under subsection (b)(2)(C), the court
18 shall consider expert testimony concerning whether a child is likely to
19 repeat an act that would be an offense described in subsection (a) if
20 committed by an adult.

21 SECTION 5. IC 11-8-8-5, AS AMENDED BY P.L.1-2012,
22 SECTION 3, AND AS AMENDED BY P.L.72-2012, SECTION 2, IS
23 CORRECTED AND AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Except as provided in section
25 22 of this chapter, as used in this chapter, "sex or violent offender"
26 means a person convicted of any of the following offenses:

27 (1) Rape (IC 35-42-4-1).

28 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.

29 (3) Child molesting (IC 35-42-4-3).

30 (4) Child exploitation (IC 35-42-4-4(b)).

31 (5) Vicarious sexual gratification (including performing sexual
32 conduct in the presence of a minor) (IC 35-42-4-5).

33 (6) Child solicitation (IC 35-42-4-6).

34 (7) Child seduction (IC 35-42-4-7).

35 (8) Sexual misconduct with a minor as a Class A, Class B, or
36 Class C felony (IC 35-42-4-9), unless:

37 (A) the person is convicted of sexual misconduct with a minor
38 as a Class C felony;

39 (B) the person is not more than:

40 (i) four (4) years older than the victim if the offense was
41 committed after June 30, 2007; or

42 (ii) five (5) years older than the victim if the offense was

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- 1 committed before July 1, 2007; and
 2 (C) the sentencing court finds that the person should not be
 3 required to register as a sex offender.
 4 (9) Incest (IC 35-46-1-3).
 5 (10) Sexual battery (IC 35-42-4-8).
 6 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 7 (18) years of age, **and the person who kidnapped the victim is not**
 8 **the victim's parent or guardian. unless the court finds that the**
 9 **offense was not committed for a sexual purpose.**
 10 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 11 than eighteen (18) years of age, **and the person who confined or**
 12 **removed the victim is not the victim's parent or guardian. unless**
 13 **the court finds that the offense was not committed for a sexual**
 14 **purpose.**
 15 (13) Possession of child pornography (IC 35-42-4-4(c)).
 16 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
 17 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the
 18 victim is less than eighteen (18) years of age.
 19 (16) Sexual trafficking of a minor ~~(IC 35-42-3.5-1(b)).~~
 20 ~~(IC 35-42-3.5-1(c)).~~
 21 (17) Human trafficking ~~(IC 35-42-3.5-1(c)(3))~~
 22 ~~(IC 35-42-3.5-1(d)(3))~~ if the victim is less than eighteen (18)
 23 years of age.
 24 (18) Murder (IC 35-42-1-1).
 25 (19) Voluntary manslaughter (IC 35-42-1-3).
 26 ~~(20) Sexual misconduct by a service provider with a detained~~
 27 ~~child (IC 35-44-1-5(e)). (IC 35-44.1-3-10(c)).~~
 28 ~~(20) (21) An attempt or conspiracy to commit a crime listed in~~
 29 ~~subdivisions (1) through (19): (20).~~
 30 ~~(21) (22) A crime under the laws of another jurisdiction, including~~
 31 ~~a military court, that is substantially equivalent to any of the~~
 32 ~~offenses listed in subdivisions (1) through (20): (21).~~
 33 (b) The term includes:
 34 (1) a person who is required to register as a sex or violent
 35 offender in any jurisdiction; and
 36 (2) a child who has committed a delinquent act and who:
 37 (A) is at least fourteen (14) years of age;
 38 (B) is on probation, is on parole, is discharged from a facility
 39 by the department of correction, is discharged from a secure
 40 private facility (as defined in IC 31-9-2-115), or is discharged
 41 from a juvenile detention facility as a result of an adjudication
 42 as a delinquent child for an act that would be an offense

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1 described in subsection (a) if committed by an adult; and
 2 (C) is found by a court by clear and convincing evidence to be
 3 likely to repeat an act that would be an offense described in
 4 subsection (a) if committed by an adult.

5 (c) In making a determination under subsection (b)(2)(C), the court
 6 shall consider expert testimony concerning whether a child is likely to
 7 repeat an act that would be an offense described in subsection (a) if
 8 committed by an adult.

9 SECTION 6. IC 11-8-8-7, AS AMENDED BY P.L.114-2012,
 10 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2013]: Sec. 7. (a) Subject to section 19 of this chapter, the
 12 following persons must register under this chapter:

13 (1) A sex or violent offender who resides in Indiana. A sex or
 14 violent offender resides in Indiana if either of the following
 15 applies:

16 (A) The sex or violent offender spends or intends to spend at
 17 least seven (7) days (including part of a day) in Indiana during
 18 a one hundred eighty (180) day period.

19 (B) The sex or violent offender owns real property in Indiana
 20 and returns to Indiana at any time.

21 (2) A sex or violent offender who works or carries on a vocation
 22 or intends to work or carry on a vocation full time or part time for
 23 a period:

24 (A) exceeding seven (7) consecutive days; or

25 (B) for a total period exceeding fourteen (14) days;
 26 during any calendar year in Indiana regardless of whether the sex
 27 or violent offender is financially compensated, volunteered, or is
 28 acting for the purpose of government or educational benefit.

29 (3) A sex or violent offender who is enrolled or intends to be
 30 enrolled on a full-time or part-time basis in any public or private
 31 educational institution, including any secondary school, trade, or
 32 professional institution, or postsecondary educational institution.

33 (b) Except as provided in subsection (e), a sex or violent offender
 34 who resides in Indiana shall register with the local law enforcement
 35 authority in the county where the sex or violent offender resides. If a
 36 sex or violent offender resides in more than one (1) county, the sex or
 37 violent offender shall register with the local law enforcement authority
 38 in each county in which the sex or violent offender resides. If the sex
 39 or violent offender is also required to register under subsection (a)(2)
 40 or (a)(3), the sex or violent offender shall also register with the local
 41 law enforcement authority in the county in which the offender is
 42 required to register under subsection (c) or (d).



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1 (c) A sex or violent offender described in subsection (a)(2) shall
 2 register with the local law enforcement authority in the county where
 3 the sex or violent offender is or intends to be employed or carry on a
 4 vocation. If a sex or violent offender is or intends to be employed or
 5 carry on a vocation in more than one (1) county, the sex or violent
 6 offender shall register with the local law enforcement authority in each
 7 county. If the sex or violent offender is also required to register under
 8 subsection (a)(1) or (a)(3), the sex or violent offender shall also register
 9 with the local law enforcement authority in the county in which the
 10 offender is required to register under subsection (b) or (d).

11 (d) A sex or violent offender described in subsection (a)(3) shall
 12 register with the local law enforcement authority in the county where
 13 the sex or violent offender is enrolled or intends to be enrolled as a
 14 student. If the sex or violent offender is also required to register under
 15 subsection (a)(1) or (a)(2), the sex or violent offender shall also register
 16 with the local law enforcement authority in the county in which the
 17 offender is required to register under subsection (b) or (c).

18 (e) A sex or violent offender described in subsection (a)(1)(B) shall
 19 register with the local law enforcement authority in the county in which
 20 the real property is located. If the sex or violent offender is also
 21 required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex
 22 or violent offender shall also register with the local law enforcement
 23 authority in the county in which the offender is required to register
 24 under subsection (b), (c), or (d).

25 (f) A sex or violent offender committed to the department shall
 26 register with the department before the sex or violent offender is
 27 **placed in a community transition program, placed in a work**
 28 **release program, or released from incarceration, whichever occurs**
 29 **first.** The department shall forward the sex or violent offender's
 30 registration information to the local law enforcement authority of every
 31 county in which the sex or violent offender is required to register. **If a**
 32 **sex or violent offender released from the department under this**
 33 **subsection:**

34 **(1) informs the department of the offender's intended location**
 35 **of residence upon release; and**

36 **(2) does not move to this location upon release;**

37 **the offender shall, not later than seventy-two (72) hours after the**
 38 **date on which the offender was released, report in person to the**
 39 **local law enforcement authority having jurisdiction over the**
 40 **offender's current address or location.**

41 (g) This subsection does not apply to a sex or violent offender who
 42 is a sexually violent predator. A sex or violent offender not committed

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1 to the department shall register not more than seven (7) days after the
2 sex or violent offender:

- 3 (1) is released from a penal facility (as defined in
- 4 IC 35-31.5-2-232);
- 5 (2) is released from a secure private facility (as defined in
- 6 IC 31-9-2-115);
- 7 (3) is released from a juvenile detention facility;
- 8 (4) is transferred to a community transition program;
- 9 (5) is placed on parole;
- 10 (6) is placed on probation;
- 11 (7) is placed on home detention; or
- 12 (8) arrives at the place where the sex or violent offender is
- 13 required to register under subsection (b), (c), or (d);

14 whichever occurs first. A sex or violent offender required to register in
15 more than one (1) county under subsection (b), (c), (d), or (e) shall
16 register in each appropriate county not more than seventy-two (72)
17 hours after the sex or violent offender's arrival in that county or
18 acquisition of real estate in that county.

19 (h) This subsection applies to a sex or violent offender who is a
20 sexually violent predator. A sex or violent offender who is a sexually
21 violent predator shall register not more than seventy-two (72) hours
22 after the sex or violent offender:

- 23 (1) is released from a penal facility (as defined in
- 24 IC 35-31.5-2-232);
- 25 (2) is released from a secure private facility (as defined in
- 26 IC 31-9-2-115);
- 27 (3) is released from a juvenile detention facility;
- 28 (4) is transferred to a community transition program;
- 29 (5) is placed on parole;
- 30 (6) is placed on probation;
- 31 (7) is placed on home detention; or
- 32 (8) arrives at the place where the sexually violent predator is
- 33 required to register under subsection (b), (c), or (d);

34 whichever occurs first. A sex or violent offender who is a sexually
35 violent predator required to register in more than one (1) county under
36 subsection (b), (c), (d), or (e) shall register in each appropriate county
37 not more than seventy-two (72) hours after the offender's arrival in that
38 county or acquisition of real estate in that county.

39 (i) The local law enforcement authority with whom a sex or violent
40 offender registers under this section shall make and publish a
41 photograph of the sex or violent offender on the Indiana sex and violent
42 offender registry web site established under IC 36-2-13-5.5. The local

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1 law enforcement authority shall make a photograph of the sex or
 2 violent offender that complies with the requirements of IC 36-2-13-5.5
 3 at least once per year. The sheriff of a county containing a consolidated
 4 city shall provide the police chief of the consolidated city with all
 5 photographic and computer equipment necessary to enable the police
 6 chief of the consolidated city to transmit sex or violent offender
 7 photographs (and other identifying information required by
 8 IC 36-2-13-5.5) to the Indiana sex and violent offender registry web
 9 site established under IC 36-2-13-5.5. In addition, the sheriff of a
 10 county containing a consolidated city shall provide all funding for the
 11 county's financial obligation for the establishment and maintenance of
 12 the Indiana sex and violent offender registry web site established under
 13 IC 36-2-13-5.5.

14 (j) When a sex or violent offender registers, the local law
 15 enforcement authority shall:

- 16 (1) immediately update the Indiana sex and violent offender
- 17 registry web site established under IC 36-2-13-5.5;
- 18 (2) notify every law enforcement agency having jurisdiction in the
- 19 county where the sex or violent offender resides; and
- 20 (3) update the National Crime Information Center National Sex
- 21 Offender Registry data base via the Indiana data and
- 22 communications system (IDACS).

23 When a sex or violent offender from a jurisdiction outside Indiana
 24 registers a change of address, electronic mail address, instant
 25 messaging username, electronic chat room username, social networking
 26 web site username, employment, vocation, or enrollment in Indiana, the
 27 local law enforcement authority shall provide the department with the
 28 information provided by the sex or violent offender during registration.

29 SECTION 7. IC 11-8-8-8, AS AMENDED BY P.L.119-2008,
 30 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2013]: Sec. 8. (a) The registration required under this chapter
 32 must include the following information:

- 33 (1) The sex or violent offender's full name, alias, any name by
- 34 which the sex or violent offender was previously known, date of
- 35 birth, sex, race, height, weight, hair color, eye color, any scars,
- 36 marks, or tattoos, Social Security number, driver's license number
- 37 or state identification card number, vehicle description, ~~and~~
- 38 vehicle plate number, **and vehicle identification number** for any
- 39 vehicle the sex or violent offender owns or operates on a regular
- 40 basis, principal residence address, other address where the sex or
- 41 violent offender spends more than seven (7) nights in a fourteen
- 42 (14) day period, and mailing address, if different from the sex or

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1 violent offender's principal residence address.
 2 (2) A description of the offense for which the sex or violent
 3 offender was convicted, the date of conviction, the county of the
 4 conviction, the cause number of the conviction, and the sentence
 5 imposed, if applicable.
 6 (3) If the person is required to register under section 7(a)(2) or
 7 7(a)(3) of this chapter, the name and address of each of the sex or
 8 violent offender's employers in Indiana, the name and address of
 9 each campus or location where the sex or violent offender is
 10 enrolled in school in Indiana, and the address where the sex or
 11 violent offender stays or intends to stay while in Indiana.
 12 (4) A recent photograph of the sex or violent offender.
 13 (5) If the sex or violent offender is a sexually violent predator,
 14 that the sex or violent offender is a sexually violent predator.
 15 (6) If the sex or violent offender is required to register for life,
 16 that the sex or violent offender is required to register for life.
 17 (7) Any electronic mail address, instant messaging username,
 18 electronic chat room username, or social networking web site
 19 username that the sex or violent offender uses or intends to use.
 20 (8) Any other information required by the department.
 21 (b) If ~~the a~~ sex or violent offender **on probation or parole** registers
 22 any information under subsection (a)(7), the offender shall sign a
 23 consent form authorizing the:
 24 (1) search of the sex or violent offender's personal computer or
 25 device with Internet capability, at any time; and
 26 (2) installation on the sex or violent offender's personal computer
 27 or device with Internet capability, at the sex or violent offender's
 28 expense, of hardware or software to monitor the sex or violent
 29 offender's Internet usage.
 30 (c) **If:**
 31 (1) **the physical appearance of the sex or violent offender**
 32 **materially changes from the photograph described in**
 33 **subsection (a)(4); or**
 34 (2) **any other information described in subsection (a) changes;**
 35 **the sex or violent offender shall report in person to the local law**
 36 **enforcement authority having jurisdiction over the sex or violent**
 37 **offender's principal address not later than seventy-two (72) hours**
 38 **after the change and permit a new photograph to be made (for a**
 39 **change in appearance) or submit the new information to the local**
 40 **law enforcement authority.**
 41 SECTION 8. IC 11-8-8-11, AS AMENDED BY P.L.119-2008,
 42 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2013]; Sec. 11. (a) If a sex or violent offender who is required
2 to register under this chapter changes:

3 (1) principal residence address; or

4 (2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place
5 where the sex or violent offender stays in Indiana;

6 the sex or violent offender shall report in person to the local law
7 enforcement authority having jurisdiction over the sex or violent
8 offender's current principal address or location and, if the offender
9 moves to a new county in Indiana, to the local law enforcement
10 authority having jurisdiction over the sex or violent offender's new
11 principal address or location not more than seventy-two (72) hours
12 after the address change.

13 (b) If a sex or violent offender moves to a new county in Indiana, the
14 local law enforcement authority where the sex or violent offender's
15 current principal residence address is located shall inform the local law
16 enforcement authority in the new county in Indiana of the sex or violent
17 offender's residence and forward all relevant registration information
18 concerning the sex or violent offender to the local law enforcement
19 authority in the new county. The local law enforcement authority
20 receiving notice under this subsection shall verify the address of the
21 sex or violent offender under section 13 of this chapter not more than
22 seven (7) days after receiving the notice.

23 (c) If a sex or violent offender who is required to register under
24 section 7(a)(2) or 7(a)(3) of this chapter changes the sex or violent
25 offender's principal place of employment, principal place of vocation,
26 or campus or location where the sex or violent offender is enrolled in
27 school, the sex or violent offender shall report in person:

28 (1) to the local law enforcement authority having jurisdiction over
29 the sex or violent offender's current principal place of
30 employment, principal place of vocation, or campus or location
31 where the sex or violent offender is enrolled in school; and

32 (2) if the sex or violent offender changes the sex or violent
33 offender's place of employment, vocation, or enrollment to a new
34 county in Indiana, to the local law enforcement authority having
35 jurisdiction over the sex or violent offender's new principal place
36 of employment, principal place of vocation, or campus or location
37 where the sex or violent offender is enrolled in school;

38 not more than seventy-two (72) hours after the change.

39 (d) If a sex or violent offender moves the sex or violent offender's
40 place of employment, vocation, or enrollment to a new county in
41 Indiana, the local law enforcement authority having jurisdiction over
42 the sex or violent offender's current principal place of employment,

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1 principal place of vocation, or campus or location where the sex or
 2 violent offender is enrolled in school shall inform the local law
 3 enforcement authority in the new county of the sex or violent offender's
 4 new principal place of employment, vocation, or enrollment by
 5 forwarding relevant registration information to the local law
 6 enforcement authority in the new county.

7 (e) If a sex or violent offender moves the sex or violent offender's
 8 residence, place of employment, vocation, or enrollment to a new state,
 9 the local law enforcement authority shall inform the state police in the
 10 new state of the sex or violent offender's new place of residence,
 11 employment, vocation, or enrollment.

12 (f) If a sex or violent offender who is required to register under this
 13 chapter changes or obtains a new:

- 14 (1) electronic mail address;
- 15 (2) instant messaging username;
- 16 (3) electronic chat room username; or
- 17 (4) social networking web site username;

18 the sex or violent offender shall report in person to the local law
 19 enforcement authority having jurisdiction over the sex or violent
 20 offender's current principal address or location and shall provide the
 21 local law enforcement authority with the new address or username not
 22 more than seventy-two (72) hours after the change or creation of the
 23 address or username.

24 (g) A local law enforcement authority shall make registration
 25 information, including information concerning the duty to register and
 26 the penalty for failing to register, available to a sex or violent offender.

27 (h) A local law enforcement authority who is notified of a change
 28 under subsection (a), (c), or (f) shall:

- 29 (1) immediately update the Indiana sex and violent offender
 30 registry web site established under IC 36-2-13-5.5;
- 31 (2) update the National Crime Information Center National Sex
 32 Offender Registry data base via the Indiana data and
 33 communications system (IDACS); and
- 34 (3) notify the department.

35 (i) If a sex or violent offender who is registered with a local law
 36 enforcement authority becomes incarcerated, the local law enforcement
 37 authority shall transmit a copy of the information provided by the sex
 38 or violent offender during registration to the department.

39 (j) If a sex or violent offender is no longer required to register due
 40 to the expiration of the registration period, **or if a court grants a**
 41 **petition under section 22 of this chapter that removes the**
 42 **offender's duty to register under this chapter**, the local law

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enforcement authority shall:

- (1) ensure the offender's information is no longer published to the public portal of the sex or violent offender registry Internet web site established under IC 36-2-13-5.5; and**
- (2) transmit a copy of the information provided by the sex or violent offender during registration to the department.**

(k) This subsection applies only to a sex or violent offender who has:

- (1) informed the local law enforcement authority of the offender's intention to move the offender's residence to a new location; and**
- (2) not moved the offender's residence to the new location.**

Not later than seventy-two (72) hours after the date on which a sex or violent offender to whom this subsection applies was scheduled to move (according to information the offender provided to the local law enforcement authority before the move), the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the offender's current address or location, even if the offender's address has not changed. An offender who fails to report as provided in this subsection may be prosecuted in the offender's original county of residence, in the county to which the offender intended to move, or in the offender's current county of residence.

SECTION 9. IC 11-8-8-13, AS AMENDED BY P.L.114-2012, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) To verify a sex or violent offender's current residence, the local law enforcement authority having jurisdiction over the area of the sex or violent offender's current principal address or location shall do the following:

- (1) Mail a form that is Contact each offender in a manner approved or prescribed by the department to each sex or violent offender in the county at the sex or violent offender's listed address at least one (1) time per year. beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex or violent offender is:**
 - (A) released from a penal facility (as defined in IC 35-31.5-2-232); a secure private facility (as defined in IC 31-9-2-115); or a juvenile detention facility;**
 - (B) placed in a community transition program;**
 - (C) placed in a community corrections program;**
 - (D) placed on parole; or**

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(E) placed on probation;
 whichever occurs first.

(2) Mail a form that is **Contact each offender who is designated a sexually violent predator in a manner** approved or prescribed by the department to each sex or violent offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex or violent offender is:

(A) released from a penal facility (as defined in IC 35-31.5-2-232), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
 (B) placed in a community transition program;
 (C) placed in a community corrections program;
 (D) placed on parole; or
 (E) placed on probation;
 whichever occurs first.

(3) Personally visit each sex or violent offender in the county at the sex or violent offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex or violent offender is:

(A) released from a penal facility (as defined in IC 35-31.5-2-232), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
 (B) placed in a community transition program;
 (C) placed in a community corrections program;
 (D) placed on parole; or
 (E) placed on probation;
 whichever occurs first.

(4) Personally visit each sex or violent offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex or violent offender is:

(A) released from a penal facility (as defined in IC 35-31.5-2-232), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
 (B) placed in a community transition program;
 (C) placed in a community corrections program;
 (D) placed on parole; or

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(E) placed on probation;
 whichever occurs first.

(b) If a sex or violent offender fails to return a signed form either by mail or in person, not later than fourteen (14) days after mailing, or appears not to reside at the listed address, the local law enforcement authority shall immediately notify the department and the prosecuting attorney.

SECTION 10. IC 11-8-8-14, AS AMENDED BY P.L.216-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. (a) This subsection does not apply to a sex or violent offender who is a sexually violent predator. In addition to the other requirements of this chapter, a sex or violent offender who is required to register under this chapter shall, at least one (1) time **every three hundred sixty-five (365) days: per calendar year:**

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority;

in each location where the offender is required to register.

(b) This subsection applies to a sex or violent offender who is a sexually violent predator. In addition to the other requirements of this chapter, a sex or violent offender who is a sexually violent predator under IC 35-38-1-7.5 shall:

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority in each location where the sex or violent offender is required to register;

every ninety (90) days.

(c) Each time a sex or violent offender who claims to be working or attending school registers in person, the sex or violent offender shall provide documentation to the local law enforcement authority providing evidence that the sex or violent offender is still working or attending school at the registered location.

SECTION 11. IC 11-8-8-15, AS AMENDED BY P.L.216-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. (a) A sex or violent offender who is a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

- (1) a valid Indiana driver's license; or
- (2) a valid Indiana identification card (as described in IC 9-24-16);

that contains the offender's current address and current physical

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1 **description.**
 2 (b) A sex or violent offender required to register in Indiana who is
 3 not a resident of Indiana shall obtain and keep in the sex or violent
 4 offender's possession:
 5 (1) a valid driver's license issued by the state in which the sex or
 6 violent offender resides; or
 7 (2) a valid state issued identification card issued by the state in
 8 which the sex or violent offender resides;
 9 **that contains the offender's current address and current physical**
 10 **description.**
 11 (c) A person who knowingly or intentionally violates this section
 12 commits failure of a sex or violent offender to possess identification,
 13 a Class A misdemeanor. However, the offense is a Class D felony if the
 14 person:
 15 (1) is a sexually violent predator; or
 16 (2) has a prior unrelated conviction:
 17 (A) under this section; or
 18 (B) based on the person's failure to comply with any
 19 requirement imposed on an offender under this chapter.
 20 (d) It is a defense to a prosecution under this section that:
 21 (1) the person has been unable to obtain a valid driver's license or
 22 state issued identification card because less than thirty (30) days
 23 have passed since the person's release from incarceration; **or**
 24 (2) the person possesses a driver's license or state issued
 25 identification card that expired not more than thirty (30) days
 26 before the date the person violated subsection (a) or (b); **or**
 27 **(3) the person possesses a valid driver's license or state issued**
 28 **identification card, but the card does not reflect the person's**
 29 **current address or current physical description because fewer**
 30 **than thirty (30) days have passed since the person changed the**
 31 **person's current address or physical characteristics.**
 32 SECTION 12. IC 11-8-8-19, AS AMENDED BY P.L.114-2012,
 33 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2013]: Sec. 19. (a) Except as provided in subsections (b)
 35 through (e), a sex or violent offender is required to register under this
 36 chapter until the expiration of ten (10) years after the date the sex or
 37 violent offender:
 38 (1) is released from a penal facility (as defined in
 39 IC 35-31.5-2-232) or a secure juvenile detention facility of a state
 40 or another jurisdiction;
 41 (2) is placed in a community transition program;
 42 (3) is placed in a community corrections program;

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1 (4) is placed on parole; or
 2 (5) is placed on probation;
 3 for the sex or violent offense requiring registration, whichever occurs
 4 last. The registration period is tolled during any period that the sex or
 5 violent offender is incarcerated. The registration period does not restart
 6 if the offender is convicted of a subsequent offense. However, if the
 7 subsequent offense is a sex or violent offense, a new registration period
 8 may be imposed in accordance with this chapter. The department shall
 9 ensure that an offender who is no longer required to register as a sex or
 10 violent offender is notified that the obligation to register has expired,
 11 **and shall ensure that the offender's information is no longer**
 12 **published to the public portal of the sex or violent offender registry**
 13 **Internet web site established under IC 36-2-13-5.5.**

14 (b) A sex or violent offender who is a sexually violent predator is
 15 required to register for life.

16 (c) A sex or violent offender who is convicted of at least one (1)
 17 offense under section 5(a) of this chapter that the sex or violent
 18 offender committed:

- 19 (1) when the person was at least eighteen (18) years of age; and
 - 20 (2) against a victim who was less than twelve (12) years of age at
 21 the time of the crime;
- 22 is required to register for life.

23 (d) A sex or violent offender who is convicted of at least one (1)
 24 offense under section 5(a) of this chapter in which the sex offender:

- 25 (1) proximately caused serious bodily injury or death to the
 26 victim;
 - 27 (2) used force or the threat of force against the victim or a
 28 member of the victim's family, unless the offense is sexual battery
 29 as a Class D felony; or
 - 30 (3) rendered the victim unconscious or otherwise incapable of
 31 giving voluntary consent;
- 32 is required to register for life.

33 (e) A sex or violent offender who is convicted of at least two (2)
 34 unrelated offenses under section 5(a) of this chapter is required to
 35 register for life.

36 (f) A person who is required to register as a sex or violent offender
 37 in any jurisdiction shall register for the period required by the other
 38 jurisdiction or the period described in this section, whichever is longer.

39 SECTION 13. IC 11-8-8-22, AS AMENDED BY P.L.103-2010,
 40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2013]: Sec. 22. (a) As used in this section, "offender" means
 42 a sex offender (as defined in section 4.5 of this chapter) and a sex or

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1 violent offender (as defined in section 5 of this chapter).

2 (b) Subsection (g) applies to an offender required to register under
3 this chapter if, due to a change in federal or state law after June 30,
4 2007, an individual who engaged in the same conduct as the offender:

- 5 (1) would not be required to register under this chapter; or
6 (2) would be required to register under this chapter but under less
7 restrictive conditions than the offender is required to meet.

8 (c) A person to whom this section applies may petition a court to:

- 9 (1) remove the person's designation as an offender **and order the**
10 **department to remove all information regarding the person**
11 **from the public portal of the sex or violent offender registry**
12 **Internet web site established under IC 36-2-13-5.5;** or

13 (2) require the person to register under less restrictive conditions.

14 (d) A petition under this section shall be filed in the circuit or
15 superior court of the county in which the offender resides. If the
16 offender resides in more than one (1) county, the petition shall be filed
17 in the circuit or superior court of the county in which the offender
18 resides the greatest time. If the offender does not reside in Indiana, the
19 petition shall be filed in the circuit or superior court of the county
20 where the offender is employed the greatest time. If the offender does
21 not reside or work in Indiana, but is a student in Indiana, the petition
22 shall be filed in the circuit or superior court of the county where the
23 offender is a student. If the offender is not a student in Indiana and does
24 not reside or work in Indiana, the petition shall be filed in the county
25 where the offender was most recently convicted of a crime listed in
26 section 5 of this chapter.

27 (e) After receiving a petition under this section, the court may:

- 28 (1) summarily dismiss the petition; or
29 (2) give notice to:
30 (A) the department;
31 (B) the attorney general;
32 (C) the prosecuting attorney of:
33 (i) the county where the petition was filed;
34 (ii) the county where offender was most recently convicted
35 of an offense listed in section 5 of this chapter; and
36 (iii) the county where the offender resides; and
37 (D) the sheriff of the county where the offender resides;

38 and set the matter for hearing. The date set for a hearing must not be
39 less than sixty (60) days after the court gives notice under this
40 subsection.

41 (f) If a court sets a matter for a hearing under this section, the
42 prosecuting attorney of the county in which the action is pending shall

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1 appear and respond, unless the prosecuting attorney requests the
 2 attorney general to appear and respond and the attorney general agrees
 3 to represent the interests of the state in the matter. If the attorney
 4 general agrees to appear, the attorney general shall give notice to:

- 5 ~~(A)~~ (1) the prosecuting attorney; and
 6 ~~(B)~~ (2) the court.

7 (g) A court may grant a petition under this section if, following a
 8 hearing, the court makes the following findings:

9 (1) The law requiring the petitioner to register as an offender has
 10 changed since the date on which the petitioner was initially
 11 required to register.

12 (2) If the petitioner who was required to register as an offender
 13 before the change in law engaged in the same conduct after the
 14 change in law occurred, the petitioner would:

- 15 (A) not be required to register as an offender; or
 16 (B) be required to register as an offender, but under less
 17 restrictive conditions.

18 (3) If the petitioner seeks relief under this section because a
 19 change in law makes a previously unavailable defense available
 20 to the petitioner, that the petitioner has proved the defense.

21 The court has the discretion to deny a petition under this section, even
 22 if the court makes the findings under this subsection.

23 (h) The petitioner has the burden of proof in a hearing under this
 24 section.

25 (i) If the court grants a petition under this section, the court shall
 26 notify:

- 27 (1) the victim of the offense, if applicable;
 28 (2) the department of correction; and
 29 (3) the local law enforcement authority of every county in which
 30 the petitioner is currently required to register.

31 (j) An offender may base a petition filed under this section on a
 32 claim that the application or registration requirements constitute ex
 33 post facto punishment.

34 (k) A petition filed under this section must:

- 35 (1) be submitted under the penalties of perjury;
 36 (2) list each of the offender's criminal convictions and state for
 37 each conviction:
 38 (A) the date of the judgment of conviction;
 39 (B) the court that entered the judgment of conviction;
 40 (C) the crime that the offender pled guilty to or was convicted
 41 of; and
 42 (D) whether the offender was convicted of the crime in a trial

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1 or pled guilty to the criminal charges; and
 2 (3) list each jurisdiction in which the offender is required to
 3 register as a sex offender or a violent offender.
 4 (l) The attorney general may initiate an appeal from any order
 5 granting an offender relief under this section.
 6 SECTION 14. IC 12-24-3-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. To provide greater
 8 security for patients, visitors, and employees, the division may not
 9 employ in a state institution an individual who has been convicted of
 10 any of the following offenses:
 11 (1) Rape (IC 35-42-4-1).
 12 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
 13 (3) Child molesting (IC 35-42-4-3).
 14 (4) Child exploitation (IC 35-42-4-4).
 15 (5) Sexual misconduct with a minor as a Class A or **Class B**
 16 felony (IC 35-42-4-9).
 17 SECTION 15. IC 16-21-8-1, AS AMENDED BY P.L.41-2007,
 18 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2013]: Sec. 1. (a) A hospital licensed under IC 16-21-2 that
 20 provides general medical and surgical hospital services shall provide
 21 forensic medical exams and additional forensic services to all alleged
 22 sex crime victims who apply for forensic medical exams and additional
 23 forensic services in relation to injuries or trauma resulting from the
 24 alleged sex crime. The provision of services may not be dependent on
 25 a victim's reporting to, or cooperating with, law enforcement.
 26 (b) For the purposes of this chapter, the following crimes are
 27 considered sex crimes:
 28 (1) Rape (IC 35-42-4-1).
 29 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
 30 (3) Child molesting (IC 35-42-4-3).
 31 (4) Vicarious sexual gratification (IC 35-42-4-5).
 32 (5) Sexual battery (IC 35-42-4-8).
 33 (6) Sexual misconduct with a minor (IC 35-42-4-9).
 34 (7) Child solicitation (IC 35-42-4-6).
 35 (8) Child seduction (IC 35-42-4-7).
 36 (9) Incest (IC 35-46-1-3).
 37 (c) Payment for services under this section shall be processed in
 38 accordance with rules adopted by the victim services division of the
 39 Indiana criminal justice institute.
 40 SECTION 16. IC 16-25-6-1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) A person may not
 42 own or operate a hospice program if the person has:

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- 1 (1) been convicted of rape (IC 35-42-4-1);
- 2 (2) been convicted of criminal deviate conduct (IC 35-42-4-2)
- 3 **(repealed);**
- 4 (3) been convicted of exploitation of a dependent or an
- 5 endangered adult (IC 35-46-1-12);
- 6 (4) had a judgment entered against the person for failure to report
- 7 battery, neglect, or exploitation of an endangered adult
- 8 (IC 35-46-1-13); or
- 9 (5) been convicted of theft (IC 35-43-4), if the person's conviction
- 10 for theft occurred less than ten (10) years before the date of
- 11 submission by the person of an application for licensure or
- 12 approval as a hospice program under IC 16-25-3.

13 (b) A person who knowingly or intentionally violates this section
 14 commits a Class A misdemeanor.

15 SECTION 17. IC 16-25-6-3 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) Except as
 17 provided in subsection (b), a person who owns or operates a hospice
 18 program may not employ an individual or allow a volunteer to provide
 19 hospice services if that individual's or volunteer's limited criminal
 20 history indicates that the individual or volunteer has:

- 21 (1) been convicted of rape (IC 35-42-4-1);
- 22 (2) been convicted of criminal deviate conduct (IC 35-42-4-2)
- 23 **(repealed);**
- 24 (3) been convicted of exploitation of an endangered adult
- 25 (IC 35-46-1-12);
- 26 (4) had a judgment entered against the individual for failure to
- 27 report battery, neglect, or exploitation of an endangered adult
- 28 (IC 35-46-1-13); or
- 29 (5) been convicted of theft (IC 35-43-4), if the conviction for theft
- 30 occurred less than ten (10) years before the individual's
- 31 employment application date.

32 (b) A hospice program may not employ an individual or allow a
 33 volunteer to provide hospice services for more than twenty-one (21)
 34 calendar days without receipt of that individual's or volunteer's limited
 35 criminal history required by section 2 of this chapter, unless the Indiana
 36 central repository for criminal history information under IC 10-13-3 is
 37 solely responsible for failing to provide the individual's or volunteer's
 38 limited criminal history to the hospice program within the time
 39 required under this subsection.

40 SECTION 18. IC 16-27-2-3, AS AMENDED BY P.L.212-2005,
 41 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2013]: Sec. 3. (a) A person may not operate a home health

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1 agency or a personal services agency if the person has been convicted
2 of any of the following:

- 3 (1) Rape (IC 35-42-4-1).
- 4 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- 5 (3) Exploitation of an endangered adult (IC 35-46-1-12).
- 6 (4) Failure to report battery, neglect, or exploitation of an
7 endangered adult (IC 35-46-1-13).
- 8 (5) Theft (IC 35-43-4), if the person's conviction for theft
9 occurred less than ten (10) years before the date of submission by
10 the person of an application for licensure as a home health agency
11 under IC 16-27-1 or as a personal services agency under
12 IC 16-27-4.

13 (b) A person who knowingly or intentionally violates this section
14 commits a Class A misdemeanor.

15 SECTION 19. IC 16-27-2-5, AS AMENDED BY P.L.84-2010,
16 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2013]: Sec. 5. (a) Except as provided in subsection (b), a
18 person who operates a home health agency under IC 16-27-1 or a
19 personal services agency under IC 16-27-4 may not employ a person to
20 provide services in a patient's or client's temporary or permanent
21 residence if that person's limited criminal history, national criminal
22 history background check, or expanded criminal history check indicates
23 that the person has been convicted of any of the following:

- 24 (1) Rape (IC 35-42-4-1).
- 25 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- 26 (3) Exploitation of an endangered adult (IC 35-46-1-12).
- 27 (4) Failure to report battery, neglect, or exploitation of an
28 endangered adult (IC 35-46-1-13).
- 29 (5) Theft (IC 35-43-4), if the conviction for theft occurred less
30 than ten (10) years before the person's employment application
31 date.
- 32 (6) A felony that is substantially equivalent to a felony listed in:
33 (A) subdivisions (1) through (4); or
34 (B) subdivision (5), if the conviction for theft occurred less
35 than ten (10) years before the person's employment application
36 date;
37 for which the conviction was entered in another state.

38 (b) A home health agency or personal services agency may not
39 employ a person to provide services in a patient's or client's temporary
40 or permanent residence for more than twenty-one (21) calendar days
41 without receipt of that person's limited criminal history, national
42 criminal history background check, or expanded criminal history check,

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1 required by section 4 of this chapter, unless the state police department,
 2 the Federal Bureau of Investigation under IC 10-13-3-39, or the private
 3 agency providing the expanded criminal history check is responsible
 4 for failing to provide the person's limited criminal history, national
 5 criminal history background check, or expanded criminal history check
 6 to the home health agency or personal services agency within the time
 7 required under this subsection.

8 SECTION 20. IC 20-28-5-8, AS AMENDED BY P.L.78-2012,
 9 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2013]: Sec. 8. (a) This section applies when a prosecuting
 11 attorney knows that a licensed employee of a public school or a
 12 nonpublic school has been convicted of an offense listed in subsection
 13 (c). The prosecuting attorney shall immediately give written notice of
 14 the conviction to the following:

15 (1) The state superintendent.

16 (2) Except as provided in subdivision (3), the superintendent of
 17 the school corporation that employs the licensed employee or the
 18 equivalent authority if a nonpublic school employs the licensed
 19 employee.

20 (3) The presiding officer of the governing body of the school
 21 corporation that employs the licensed employee, if the convicted
 22 licensed employee is the superintendent of the school corporation.

23 (b) The superintendent of a school corporation, presiding officer of
 24 the governing body, or equivalent authority for a nonpublic school shall
 25 immediately notify the state superintendent when the individual knows
 26 that a current or former licensed employee of the public school or
 27 nonpublic school has been convicted of an offense listed in subsection
 28 (c), or when the governing body or equivalent authority for a nonpublic
 29 school takes any final action in relation to an employee who engaged
 30 in any offense listed in subsection (c).

31 (c) The department, after holding a hearing on the matter, shall
 32 permanently revoke the license of a person who is known by the
 33 department to have been convicted of any of the following felonies:

34 (1) Kidnapping (IC 35-42-3-2).

35 (2) Criminal confinement (IC 35-42-3-3).

36 (3) Rape (IC 35-42-4-1).

37 (4) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.

38 (5) Child molesting (IC 35-42-4-3).

39 (6) Child exploitation (IC 35-42-4-4(b)).

40 (7) Vicarious sexual gratification (IC 35-42-4-5).

41 (8) Child solicitation (IC 35-42-4-6).

42 (9) Child seduction (IC 35-42-4-7).



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- 1 (10) Sexual misconduct with a minor (IC 35-42-4-9).
 2 (11) Incest (IC 35-46-1-3).
 3 (12) Dealing in or manufacturing cocaine or a narcotic drug
 4 (IC 35-48-4-1).
 5 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
 6 (14) Dealing in a schedule I, II, or III controlled substance
 7 (IC 35-48-4-2).
 8 (15) Dealing in a schedule IV controlled substance
 9 (IC 35-48-4-3).
 10 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 11 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
 12 (18) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 13 drug (IC 35-48-4-10(b)).
 14 (19) Possession of child pornography (IC 35-42-4-4(c)).
 15 (20) Homicide (IC 35-42-1).
 16 (21) Voluntary manslaughter (IC 35-42-1-3).
 17 (22) Reckless homicide (IC 35-42-1-5).
 18 (23) Battery as any of the following:
 19 (A) A Class A felony (IC 35-42-2-1(a)(5)).
 20 (B) A Class B felony (IC 35-42-2-1(a)(4)).
 21 (C) A Class C felony (IC 35-42-2-1(a)(3)).
 22 (24) Aggravated battery (IC 35-42-2-1.5).
 23 (25) Robbery (IC 35-42-5-1).
 24 (26) Carjacking (IC 35-42-5-2).
 25 (27) Arson as a Class A felony or a Class B felony
 26 (IC 35-43-1-1(a)).
 27 (28) Burglary as a Class A felony or a Class B felony
 28 (IC 35-43-2-1).
 29 (29) Attempt under IC 35-41-5-1 to commit an offense listed in
 30 subdivisions (1) through (28).
 31 (30) Conspiracy under IC 35-41-5-2 to commit an offense listed
 32 in subdivisions (1) through (28).
 33 (d) The department, after holding a hearing on the matter, shall
 34 permanently revoke the license of a person who is known by the
 35 department to have been convicted of a federal offense or an offense in
 36 another state that is comparable to a felony listed in subsection (c).
 37 (e) A license may be suspended by the state superintendent as
 38 specified in IC 20-28-7.5.
 39 (f) The department shall develop a data base of information on
 40 school corporation employees who have been reported to the
 41 department under this section.
 42 SECTION 21. IC 22-5-5-1 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. The employment
2 contract of a person who:

3 (1) works with children; and

4 (2) is convicted of:

5 (A) rape (IC 35-42-4-1), if the victim is less than eighteen (18)
6 years of age;

7 (B) criminal deviate conduct (IC 35-42-4-2) (**repealed**), if the
8 victim is less than eighteen (18) years of age;

9 (C) child molesting (IC 35-42-4-3);

10 (D) child exploitation (IC 35-42-4-4(b));

11 (E) vicarious sexual gratification (IC 35-42-4-5);

12 (F) child solicitation (IC 35-42-4-6);

13 (G) child seduction (IC 35-42-4-7); or

14 (H) incest (IC 35-46-1-3), if the victim is less than eighteen
15 (18) years of age;

16 may be canceled by the person's employer.

17 SECTION 22. IC 29-3-7-7, AS ADDED BY P.L.131-2009,
18 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2013]: Sec. 7. A court may not appoint a person to serve as
20 the guardian or permit a person to continue to serve as a guardian if the
21 person:

22 (1) is a sexually violent predator (as described in IC 35-38-1-7.5);

23 (2) was at least eighteen (18) years of age at the time of the
24 offense and was convicted of child molesting (IC 35-42-4-3) or
25 sexual misconduct with a minor (IC 35-42-4-9) against a child
26 less than sixteen (16) years of age:

27 (A) by using or threatening the use of deadly force;

28 (B) while armed with a deadly weapon; or

29 (C) that resulted in serious bodily injury; or

30 (3) was less than eighteen (18) years of age at the time of the
31 offense and was convicted as an adult of:

32 (A) an offense described in:

33 (i) IC 35-42-4-1;

34 (ii) IC 35-42-4-2 (**before its repeal**);

35 (iii) IC 35-42-4-3 as a Class A or Class B felony;

36 (iv) IC 35-42-4-5(a)(1);

37 (v) IC 35-42-4-5(a)(2);

38 (vi) IC 35-42-4-5(a)(3);

39 (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

40 (viii) IC 35-42-4-5(b)(2); or

41 (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

42 (B) an attempt or conspiracy to commit a crime listed in clause

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- 1 (A); or
- 2 (C) a crime under the laws of another jurisdiction, including a
- 3 military court, that is substantially equivalent to any of the
- 4 offenses listed in clauses (A) and (B).

5 SECTION 23. IC 31-19-9-10 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. A court shall
 7 determine that consent to adoption is not required from a parent if:

- 8 (1) the parent is convicted of and incarcerated at the time of the
- 9 filing of a petition for adoption for:
 - 10 (A) murder (IC 35-42-1-1);
 - 11 (B) causing suicide (IC 35-42-1-2);
 - 12 (C) voluntary manslaughter (IC 35-42-1-3);
 - 13 (D) rape (IC 35-42-4-1);
 - 14 (E) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
 - 15 (F) child molesting as a Class A or Class B felony
 - 16 (IC 35-42-4-3);
 - 17 (G) incest as a Class B felony (IC 35-46-1-3);
 - 18 (H) neglect of a dependent as a Class B felony (IC 35-46-1-4);
 - 19 (I) battery of a child as a Class C felony (IC 35-42-2-1(a)(3));
 - 20 (J) battery as a Class A felony (IC 35-42-2-1(a)(5)) or Class B
 - 21 felony (IC 35-42-2-1(a)(4)); or
 - 22 (K) an attempt under IC 35-41-5-1 to commit an offense
 - 23 described in clauses (A) through (J);
- 24 (2) the child or the child's sibling, half-blood sibling, or
- 25 step-sibling of the parent's current marriage is the victim of the
- 26 offense; and
- 27 (3) after notice to the parent and a hearing, the court determines
- 28 that dispensing with the parent's consent to adoption is in the
- 29 child's best interests.

30 SECTION 24. IC 31-30-1-2.5, AS AMENDED BY P.L.131-2009,
 31 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2013]: Sec. 2.5. A juvenile court may not appoint a person to
 33 serve as the guardian or custodian of a child or permit a person to
 34 continue to serve as a guardian or custodian of a child if the person:

- 35 (1) is a sexually violent predator (as described in IC 35-38-1-7.5);
- 36 (2) was at least eighteen (18) years of age at the time of the
- 37 offense and committed child molesting (IC 35-42-4-3) or sexual
- 38 misconduct with a minor (IC 35-42-4-9) against a child less than
- 39 sixteen (16) years of age:
 - 40 (A) by using or threatening the use of deadly force;
 - 41 (B) while armed with a deadly weapon; or
 - 42 (C) that resulted in serious bodily injury; or

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- 1 (3) was less than eighteen (18) years of age at the time of the
- 2 offense but was tried and convicted as an adult of:
- 3 (A) an offense described in:
- 4 (i) IC 35-42-4-1;
- 5 (ii) IC 35-42-4-2 **(before its repeal)**;
- 6 (iii) IC 35-42-4-3 as a Class A or Class B felony;
- 7 (iv) IC 35-42-4-5(a)(1);
- 8 (v) IC 35-42-4-5(a)(2);
- 9 (vi) IC 35-42-4-5(a)(3);
- 10 (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
- 11 (viii) IC 35-42-4-5(b)(2); or
- 12 (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;
- 13 (B) an attempt or conspiracy to commit a crime listed in clause
- 14 (A); or
- 15 (C) a crime under the laws of another jurisdiction, including a
- 16 military court, that is substantially equivalent to any of the
- 17 offenses listed in clauses (A) and (B).

18 SECTION 25. IC 31-30-1-4, AS AMENDED BY P.L.67-2008,
 19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2013]: Sec. 4. (a) The juvenile court does not have jurisdiction
 21 over an individual for an alleged violation of:

- 22 (1) IC 35-41-5-1(a) (attempted murder);
- 23 (2) IC 35-42-1-1 (murder);
- 24 (3) IC 35-42-3-2 (kidnapping);
- 25 (4) IC 35-42-4-1 (rape);
- 26 (5) IC 35-42-4-2 (criminal deviate conduct) **(repealed)**;
- 27 (6) IC 35-42-5-1 (robbery) if:
- 28 (A) the robbery was committed while armed with a deadly
- 29 weapon; or
- 30 (B) the robbery results in bodily injury or serious bodily
- 31 injury;
- 32 (7) IC 35-42-5-2 (carjacking);
- 33 (8) IC 35-45-9-3 (criminal gang activity);
- 34 (9) IC 35-45-9-4 (criminal gang intimidation);
- 35 (10) IC 35-47-2-1 (carrying a handgun without a license), if
- 36 charged as a felony;
- 37 (11) IC 35-47-10 (children and firearms), if charged as a felony;
- 38 (12) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or
- 39 (13) any offense that may be joined under IC 35-34-1-9(a)(2) with
- 40 any crime listed in subdivisions (1) through (12);
- 41 if the individual was at least sixteen (16) years of age at the time of the
- 42 alleged violation.

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1 (b) The juvenile court does not have jurisdiction for an alleged
2 violation of manufacturing or dealing in cocaine or a narcotic drug
3 (IC 35-48-4-1), dealing in methamphetamine (IC 35-48-4-1.1), dealing
4 in a schedule I, II, or III controlled substance (IC 35-48-4-2), or dealing
5 in a schedule IV controlled substance (IC 35-48-4-3), if:

- 6 (1) the individual has a prior unrelated conviction under
7 IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or
8 (2) the individual has a prior unrelated juvenile adjudication that,
9 if committed by an adult, would be a crime under IC 35-48-4-1,
10 IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;

11 and the individual was at least sixteen (16) years of age at the time of
12 the alleged violation.

13 (c) Once an individual described in subsection (a) or (b) has been
14 charged with any crime listed in subsection (a) or (b), the court having
15 adult criminal jurisdiction shall retain jurisdiction over the case even
16 if the individual pleads guilty to or is convicted of a lesser included
17 offense. A plea of guilty to or a conviction of a lesser included offense
18 does not vest jurisdiction in the juvenile court.

19 SECTION 26. IC 31-34-1-3 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A child is a child
21 in need of services if, before the child becomes eighteen (18) years of
22 age:

- 23 (1) the child is the victim of a sex offense under:
24 (A) IC 35-42-4-1;
25 (B) IC 35-42-4-2 (**repealed**);
26 (C) IC 35-42-4-3;
27 (D) IC 35-42-4-4;
28 (E) IC 35-42-4-7;
29 (F) IC 35-42-4-9;
30 (G) IC 35-45-4-1;
31 (H) IC 35-45-4-2;
32 (I) IC 35-46-1-3; or
33 (J) the law of another jurisdiction, including a military court,
34 that is substantially equivalent to any of the offenses listed in
35 clauses (A) through (I); and
36 (2) the child needs care, treatment, or rehabilitation that:
37 (A) the child is not receiving; and
38 (B) is unlikely to be provided or accepted without the coercive
39 intervention of the court.

40 (b) A child is a child in need of services if, before the child becomes
41 eighteen (18) years of age:

- 42 (1) the child lives in the same household as another child who is

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- 1 the victim of a sex offense under:
 2 (A) IC 35-42-4-1;
 3 (B) IC 35-42-4-2 (**repealed**);
 4 (C) IC 35-42-4-3;
 5 (D) IC 35-42-4-4;
 6 (E) IC 35-42-4-7;
 7 (F) IC 35-42-4-9;
 8 (G) IC 35-45-4-1;
 9 (H) IC 35-45-4-2;
 10 (I) IC 35-46-1-3; or
 11 (J) the law of another jurisdiction, including a military court,
 12 that is substantially equivalent to any of the offenses listed in
 13 clauses (A) through (I);
 14 (2) the child lives in the same household as the adult who
 15 committed the sex offense under subdivision (1) and the sex
 16 offense resulted in a conviction or a judgment under
 17 IC 31-34-11-2;
 18 (3) the child needs care, treatment, or rehabilitation that:
 19 (A) the child is not receiving; and
 20 (B) is unlikely to be provided or accepted without the coercive
 21 intervention of the court; and
 22 (4) a caseworker assigned to provide services to the child:
 23 (A) places the child in a program of informal adjustment or
 24 other family or rehabilitative services based upon the existence
 25 of the circumstances described in subdivisions (1) and (2) and
 26 the assigned caseworker subsequently determines further
 27 intervention is necessary; or
 28 (B) determines that a program of informal adjustment or other
 29 family or rehabilitative services is inappropriate.
 30 SECTION 27. IC 31-35-3-4, AS AMENDED BY P.L.146-2008,
 31 SECTION 618, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2013]: Sec. 4. If:
 33 (1) an individual is convicted of the offense of:
 34 (A) murder (IC 35-42-1-1);
 35 (B) causing suicide (IC 35-42-1-2);
 36 (C) voluntary manslaughter (IC 35-42-1-3);
 37 (D) involuntary manslaughter (IC 35-42-1-4);
 38 (E) rape (IC 35-42-4-1);
 39 (F) criminal deviate conduct (IC 35-42-4-2) (**repealed**);
 40 (G) child molesting (IC 35-42-4-3);
 41 (H) child exploitation (IC 35-42-4-4);
 42 (I) sexual misconduct with a minor (IC 35-42-4-9); or

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- 1 (J) incest (IC 35-46-1-3); and
 2 (2) the victim of the offense:
 3 (A) was less than sixteen (16) years of age at the time of the
 4 offense; and
 5 (B) is:
 6 (i) the individual's biological or adoptive child; or
 7 (ii) the child of a spouse of the individual who has
 8 committed the offense;
 9 the attorney for the department, the child's guardian ad litem, or the
 10 court appointed special advocate may file a petition with the juvenile
 11 or probate court to terminate the parent-child relationship of the
 12 individual who has committed the offense with the victim of the
 13 offense, the victim's siblings, or any biological or adoptive child of that
 14 individual.
 15 SECTION 28. IC 31-37-19-9, AS AMENDED BY P.L.173-2006,
 16 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2013]: Sec. 9. (a) This section applies if a child is a delinquent
 18 child under IC 31-37-1.
 19 (b) After a juvenile court makes a determination under IC 11-8-8-5,
 20 the juvenile court may, in addition to an order under section 6 of this
 21 chapter, and if the child:
 22 (1) is at least thirteen (13) years of age and less than sixteen (16)
 23 years of age; and
 24 (2) committed an act that, if committed by an adult, would be:
 25 (A) murder (IC 35-42-1-1);
 26 (B) kidnapping (IC 35-42-3-2);
 27 (C) rape (IC 35-42-4-1);
 28 (D) criminal deviate conduct (IC 35-42-4-2) **(repealed)**; or
 29 (E) robbery (IC 35-42-5-1) if the robbery was committed while
 30 armed with a deadly weapon or if the robbery resulted in
 31 bodily injury or serious bodily injury;
 32 order wardship of the child to the department of correction for a fixed
 33 period that is not longer than the date the child becomes eighteen (18)
 34 years of age, subject to IC 11-10-2-10.
 35 (c) Notwithstanding IC 11-10-2-5, the department of correction may
 36 not reduce the period ordered under this section (or
 37 IC 31-6-4-15.9(b)(8) before its repeal).
 38 SECTION 29. IC 33-37-5-12 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. The court shall
 40 order a person to pay a child abuse prevention fee of one hundred
 41 dollars (\$100) to the clerk in each criminal action in which:
 42 (1) the person is found to have committed the offense of:

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- 1 (A) murder (IC 35-42-1-1);
- 2 (B) causing suicide (IC 35-42-1-2);
- 3 (C) voluntary manslaughter (IC 35-42-1-3);
- 4 (D) reckless homicide (IC 35-42-1-5);
- 5 (E) battery (IC 35-42-2-1);
- 6 (F) rape (IC 35-42-4-1);
- 7 (G) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
- 8 (H) child molesting (IC 35-42-4-3);
- 9 (I) child exploitation (IC 35-42-4-4);
- 10 (J) vicarious sexual gratification (IC 35-42-4-5);
- 11 (K) child solicitation (IC 35-42-4-6);
- 12 (L) incest (IC 35-46-1-3);
- 13 (M) neglect of a dependent (IC 35-46-1-4);
- 14 (N) child selling (IC 35-46-1-4); or
- 15 (O) child seduction (IC 35-42-4-7); and
- 16 (2) the victim of the offense is less than eighteen (18) years of
- 17 age.

18 SECTION 30. IC 33-37-5-23 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 23. (a) This section
 20 applies to criminal actions.

21 (b) The court shall assess a sexual assault victims assistance fee of
 22 at least two hundred fifty dollars (\$250) and not more than one
 23 thousand dollars (\$1,000) against an individual convicted in Indiana of
 24 any of the following offenses:

- 25 (1) Rape (IC 35-42-4-1).
- 26 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- 27 (3) Child molesting (IC 35-42-4-3).
- 28 (4) Child exploitation (IC 35-42-4-4(b)).
- 29 (5) Vicarious sexual gratification (IC 35-42-4-5).
- 30 (6) Child solicitation (IC 35-42-4-6).
- 31 (7) Child seduction (IC 35-42-4-7).
- 32 (8) Sexual battery (IC 35-42-4-8).
- 33 (9) Sexual misconduct with a minor as a Class A or Class B
 34 felony (IC 35-42-4-9).
- 35 (10) Incest (IC 35-46-1-3).

36 SECTION 31. IC 33-39-1-9 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. A prosecuting
 38 attorney who charges a person with committing any of the following
 39 shall inform the person's employer of the charge, unless the prosecuting
 40 attorney determines that the person charged does not work with
 41 children:

- 42 (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)

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- 1 years of age.
- 2 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**, if the
- 3 victim is less than eighteen (18) years of age.
- 4 (3) Child molesting (IC 35-42-4-3).
- 5 (4) Child exploitation (IC 35-42-4-4(b)).
- 6 (5) Vicarious sexual gratification (IC 35-42-4-5).
- 7 (6) Child solicitation (IC 35-42-4-6).
- 8 (7) Child seduction (IC 35-42-4-7).
- 9 (8) Incest (IC 35-46-1-3), if the victim is less than eighteen (18)
- 10 years of age.
- 11 SECTION 32. IC 35-31.5-2-216, AS ADDED BY P.L.114-2012,
- 12 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2013]: Sec. 216. "Offense relating to a criminal sexual act"
- 14 means the following:
- 15 (1) Rape (IC 35-42-4-1).
- 16 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- 17 (3) Child molesting (IC 35-42-4-3).
- 18 (4) Child seduction (IC 35-42-4-7).
- 19 (5) Prostitution (IC 35-45-4-2).
- 20 (6) Patronizing a prostitute (IC 35-45-4-3).
- 21 (7) Incest (IC 35-46-1-3).
- 22 (8) Sexual misconduct with a minor under IC 35-42-4-9(a).
- 23 SECTION 33. IC 35-38-1-7.5, AS AMENDED BY P.L.216-2007,
- 24 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 25 JULY 1, 2013]: Sec. 7.5. (a) As used in this section, "sexually violent
- 26 predator" means a person who suffers from a mental abnormality or
- 27 personality disorder that makes the individual likely to repeatedly
- 28 commit a sex offense (as defined in IC 11-8-8-5.2). The term includes
- 29 a person convicted in another jurisdiction who is identified as a
- 30 sexually violent predator under IC 11-8-8-20. The term does not
- 31 include a person no longer considered a sexually violent predator under
- 32 subsection (g).
- 33 (b) A person who:
- 34 (1) being at least eighteen (18) years of age, commits an offense
- 35 described in:
- 36 (A) IC 35-42-4-1;
- 37 (B) IC 35-42-4-2 **(before its repeal)**;
- 38 (C) IC 35-42-4-3 as a Class A or Class B felony;
- 39 (D) IC 35-42-4-5(a)(1);
- 40 (E) IC 35-42-4-5(a)(2);
- 41 (F) IC 35-42-4-5(a)(3);
- 42 (G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

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1 (H) IC 35-42-4-5(b)(2);
 2 (I) IC 35-42-4-5(b)(3) as a Class A or Class B felony;
 3 (J) an attempt or conspiracy to commit a crime listed in
 4 clauses (A) through (I); or
 5 (K) a crime under the laws of another jurisdiction, including
 6 a military court, that is substantially equivalent to any of the
 7 offenses listed in clauses (A) through (J);
 8 (2) commits a sex offense (as defined in IC 11-8-8-5.2) while
 9 having a previous unrelated conviction for a sex offense for which
 10 the person is required to register as a sex or violent offender under
 11 IC 11-8-8;
 12 (3) commits a sex offense (as defined in IC 11-8-8-5.2) while
 13 having had a previous unrelated adjudication as a delinquent child
 14 for an act that would be a sex offense if committed by an adult, if,
 15 after considering expert testimony, a court finds by clear and
 16 convincing evidence that the person is likely to commit an
 17 additional sex offense; or
 18 (4) commits a sex offense (as defined in IC 11-8-8-5.2) while
 19 having had a previous unrelated adjudication as a delinquent child
 20 for an act that would be a sex offense if committed by an adult, if
 21 the person was required to register as a sex or violent offender
 22 under IC 11-8-8-5(b)(2);
 23 is a sexually violent predator. Except as provided in subsection (g) or
 24 (h), a person is a sexually violent predator by operation of law if an
 25 offense committed by the person satisfies the conditions set forth in
 26 subdivision (1) or (2) and the person was released from incarceration,
 27 secure detention, ~~or~~ probation, **or parole** for the offense after June 30,
 28 1994.
 29 (c) This section applies whenever a court sentences a person or a
 30 juvenile court issues a dispositional decree for a sex offense (as defined
 31 in IC 11-8-8-5.2) for which the person is required to register with the
 32 local law enforcement authority under IC 11-8-8.
 33 (d) At the sentencing hearing, the court shall indicate on the record
 34 whether the person has been convicted of an offense that makes the
 35 person a sexually violent predator under subsection (b).
 36 (e) If a person is not a sexually violent predator under subsection
 37 (b), the prosecuting attorney may request the court to conduct a hearing
 38 to determine whether the person (including a child adjudicated to be a
 39 delinquent child) is a sexually violent predator under subsection (a). If
 40 the court grants the motion, the court shall appoint two (2)
 41 psychologists or psychiatrists who have expertise in criminal
 42 behavioral disorders to evaluate the person and testify at the hearing.

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1 After conducting the hearing and considering the testimony of the two
 2 (2) psychologists or psychiatrists, the court shall determine whether the
 3 person is a sexually violent predator under subsection (a). A hearing
 4 conducted under this subsection may be combined with the person's
 5 sentencing hearing.

6 (f) If a person is a sexually violent predator:

7 (1) the person is required to register with the local law
 8 enforcement authority as provided in IC 11-8-8; and

9 (2) the court shall send notice to the department of correction.

10 (g) This subsection does not apply to a person who has two (2) or
 11 more unrelated convictions for an offense described in IC 11-8-8-4.5
 12 for which the person is required to register under IC 11-8-8. A person
 13 who is a sexually violent predator may petition the court to consider
 14 whether the person should no longer be considered a sexually violent
 15 predator. The person may file a petition under this subsection not
 16 earlier than ten (10) years after:

17 (1) the sentencing court or juvenile court makes its determination
 18 under subsection (e); or

19 (2) the person is released from incarceration or secure detention.

20 A person may file a petition under this subsection not more than one
 21 (1) time per year. A court may dismiss a petition filed under this
 22 subsection or conduct a hearing to determine if the person should no
 23 longer be considered a sexually violent predator. If the court conducts
 24 a hearing, the court shall appoint two (2) psychologists or psychiatrists
 25 who have expertise in criminal behavioral disorders to evaluate the
 26 person and testify at the hearing. After conducting the hearing and
 27 considering the testimony of the two (2) psychologists or psychiatrists,
 28 the court shall determine whether the person should no longer be
 29 considered a sexually violent predator under subsection (a). If a court
 30 finds that the person should no longer be considered a sexually violent
 31 predator, the court shall send notice to the department of correction that
 32 the person is no longer considered a sexually violent predator **or an**
 33 **offender against children**. Notwithstanding any other law, a condition
 34 imposed on a person due to the person's status as a sexually violent
 35 predator, including lifetime parole or GPS monitoring, does not apply
 36 to a person no longer considered a sexually violent predator.

37 (h) A person is not a sexually violent predator by operation of law
 38 under subsection (b)(1) if all of the following conditions are met:

39 (1) The victim was not less than twelve (12) years of age at the
 40 time the offense was committed.

41 (2) The person is not more than four (4) years older than the
 42 victim.



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1 (3) The relationship between the person and the victim was a
 2 dating relationship or an ongoing personal relationship. The term
 3 "ongoing personal relationship" does not include a family
 4 relationship.

5 (4) The offense committed by the person was not any of the
 6 following:

7 (A) Rape (IC 35-42-4-1).

8 (B) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.

9 (C) An offense committed by using or threatening the use of
 10 deadly force or while armed with a deadly weapon.

11 (D) An offense that results in serious bodily injury.

12 (E) An offense that is facilitated by furnishing the victim,
 13 without the victim's knowledge, with a drug (as defined in
 14 IC 16-42-19-2(1)) or a controlled substance (as defined in
 15 IC 35-48-1-9) or knowing that the victim was furnished with
 16 the drug or controlled substance without the victim's
 17 knowledge.

18 (5) The person has not committed another sex offense (as defined
 19 in IC 11-8-8-5.2) (including a delinquent act that would be a sex
 20 offense if committed by an adult) against any other person.

21 (6) The person did not have a position of authority or substantial
 22 influence over the victim.

23 (7) The court finds that the person should not be considered a
 24 sexually violent predator.

25 SECTION 34. IC 35-38-2-2.5, AS AMENDED BY P.L.216-2007,
 26 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2013]: Sec. 2.5. (a) As used in this section, "offender" means
 28 an individual convicted of a sex offense.

29 (b) As used in this section, "sex offense" means any of the
 30 following:

31 (1) Rape (IC 35-42-4-1).

32 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.

33 (3) Child molesting (IC 35-42-4-3).

34 (4) Child exploitation (IC 35-42-4-4(b)).

35 (5) Vicarious sexual gratification (IC 35-42-4-5).

36 (6) Child solicitation (IC 35-42-4-6).

37 (7) Child seduction (IC 35-42-4-7).

38 (8) Sexual battery (IC 35-42-4-8).

39 (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

40 (10) Incest (IC 35-46-1-3).

41 (c) A condition of remaining on probation or parole after conviction
 42 for a sex offense is that the offender not reside within one (1) mile of

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1 the residence of the victim of the offender's sex offense.

2 (d) An offender:

3 (1) who will be placed on probation shall provide the sentencing
4 court and the probation department with the address where the
5 offender intends to reside during the period of probation:

6 (A) at the time of sentencing if the offender will be placed on
7 probation without first being incarcerated; or

8 (B) before the offender's release from incarceration if the
9 offender will be placed on probation after completing a term
10 of incarceration; or

11 (2) who will be placed on parole shall provide the parole board
12 with the address where the offender intends to reside during the
13 period of parole.

14 (e) An offender, while on probation or parole, may not establish a
15 new residence within one (1) mile of the residence of the victim of the
16 offender's sex offense unless the offender first obtains a waiver from
17 the:

18 (1) court, if the offender is placed on probation; or

19 (2) parole board, if the offender is placed on parole;

20 for the change of address under subsection (f).

21 (f) The court or parole board may waive the requirement set forth in
22 subsection (c) only if the court or parole board, at a hearing at which
23 the offender is present and of which the prosecuting attorney has been
24 notified, determines that:

25 (1) the offender has successfully completed a sex offender
26 treatment program during the period of probation or parole;

27 (2) the offender is in compliance with all terms of the offender's
28 probation or parole; and

29 (3) good cause exists to allow the offender to reside within one (1)
30 mile of the residence of the victim of the offender's sex offense.

31 However, the court or parole board may not grant a waiver under this
32 subsection if the offender is a sexually violent predator under
33 IC 35-38-1-7.5 or if the offender is an offender against children under
34 IC 35-42-4-11.

35 (g) If the court or parole board grants a waiver under subsection (f),
36 the court or parole board shall state in writing the reasons for granting
37 the waiver. The court's written statement of its reasons shall be
38 incorporated into the record.

39 (h) The address of the victim of the offender's sex offense is
40 confidential even if the court or parole board grants a waiver under
41 subsection (f).

42 SECTION 35. IC 35-42-1-1, AS AMENDED BY P.L.1-2007,

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1 SECTION 230, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2013]: Sec. 1. A person who:

- 3 (1) knowingly or intentionally kills another human being;
4 (2) kills another human being while committing or attempting to
5 commit arson, burglary, child molesting, consumer product
6 tampering, criminal deviate conduct (**under IC 35-42-4-2 before
7 its repeal**), kidnapping, rape, robbery, human trafficking,
8 promotion of human trafficking, sexual trafficking of a minor, or
9 carjacking;
10 (3) kills another human being while committing or attempting to
11 commit:
12 (A) dealing in or manufacturing cocaine or a narcotic drug
13 (IC 35-48-4-1);
14 (B) dealing in or manufacturing methamphetamine
15 (IC 35-48-4-1.1);
16 (C) dealing in a schedule I, II, or III controlled substance
17 (IC 35-48-4-2);
18 (D) dealing in a schedule IV controlled substance
19 (IC 35-48-4-3); or
20 (E) dealing in a schedule V controlled substance; or
21 (4) knowingly or intentionally kills a fetus that has attained
22 viability (as defined in IC 16-18-2-365);

23 commits murder, a felony.

24 SECTION 36. IC 35-42-4-1 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Except as
26 provided in subsection (b), a person who knowingly or intentionally has
27 sexual intercourse with a member of the opposite sex **or knowingly or
28 intentionally causes another person to perform or submit to
29 deviate sexual conduct** when:

- 30 (1) the other person is compelled by force or imminent threat of
31 force;
32 (2) the other person is unaware that the sexual intercourse **or
33 deviate sexual conduct** is occurring; or
34 (3) the other person is so mentally disabled or deficient that
35 consent to sexual intercourse **or deviate sexual conduct** cannot
36 be given;

37 commits rape, a Class B felony.

38 (b) An offense described in subsection (a) is a Class A felony if:

- 39 (1) it is committed by using or threatening the use of deadly force;
40 (2) it is committed while armed with a deadly weapon;
41 (3) it results in serious bodily injury to a person other than a
42 defendant; or

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1 (4) the commission of the offense is facilitated by furnishing the
2 victim, without the victim's knowledge, with a drug (as defined in
3 IC 16-42-19-2(1)) or a controlled substance (as defined in
4 IC 35-48-1-9) or knowing that the victim was furnished with the
5 drug or controlled substance without the victim's knowledge.

6 SECTION 37. IC 35-42-4-2 IS REPEALED [EFFECTIVE JULY 1,
7 2013]. Sec. 2: (a) A person who knowingly or intentionally causes
8 another person to perform or submit to deviate sexual conduct when:

9 (1) the other person is compelled by force or imminent threat of
10 force;

11 (2) the other person is unaware that the conduct is occurring; or

12 (3) the other person is so mentally disabled or deficient that
13 consent to the conduct cannot be given;

14 commits criminal deviate conduct, a Class B felony:

15 (b) An offense described in subsection (a) is a Class A felony if:

16 (1) it is committed by using or threatening the use of deadly force;

17 (2) it is committed while armed with a deadly weapon;

18 (3) it results in serious bodily injury to any person other than a
19 defendant; or

20 (4) the commission of the offense is facilitated by furnishing the
21 victim, without the victim's knowledge, with a drug (as defined in
22 IC 16-42-19-2(1)) or a controlled substance (as defined in
23 IC 35-48-1-9) or knowing that the victim was furnished with the
24 drug or controlled substance without the victim's knowledge.

25 SECTION 38. IC 35-42-4-4, AS AMENDED BY P.L.6-2012,
26 SECTION 226, IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) The following definitions
28 apply throughout this section:

29 (1) "Disseminate" means to transfer possession for free or for a
30 consideration.

31 (2) "Matter" has the same meaning as in IC 35-49-1-3.

32 (3) "Performance" has the same meaning as in IC 35-49-1-7.

33 (4) "Sexual conduct" means sexual intercourse, deviate sexual
34 conduct, exhibition of the uncovered genitals intended to satisfy
35 or arouse the sexual desires of any person, sadomasochistic abuse,
36 sexual intercourse or deviate sexual conduct with an animal, or
37 any fondling or touching of a child by another person or of
38 another person by a child intended to arouse or satisfy the sexual
39 desires of either the child or the other person.

40 (b) A person who knowingly or intentionally:

41 (1) manages, produces, sponsors, presents, exhibits, photographs,
42 films, videotapes, or creates a digitized image of any performance

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- 1 or incident that includes sexual conduct by a child under eighteen
 2 (18) years of age;
 3 (2) disseminates, exhibits to another person, offers to disseminate
 4 or exhibit to another person, or sends or brings into Indiana for
 5 dissemination or exhibition matter that depicts or describes sexual
 6 conduct by a child under eighteen (18) years of age; or
 7 (3) makes available to another person a computer, knowing that
 8 the computer's fixed drive or peripheral device contains matter
 9 that depicts or describes sexual conduct by a child less than
 10 eighteen (18) years of age;
 11 commits child exploitation, a Class C felony.
 12 (c) A person who knowingly or intentionally possesses:
 13 (1) a picture;
 14 (2) a drawing;
 15 (3) a photograph;
 16 (4) a negative image;
 17 (5) undeveloped film;
 18 (6) a motion picture;
 19 (7) a videotape;
 20 (8) a digitized image; or
 21 (9) any pictorial representation;
 22 that depicts or describes sexual conduct by a child who the person
 23 knows is less than ~~sixteen (16)~~ **eighteen (18)** years of age or who
 24 appears to be less than ~~sixteen (16)~~ **eighteen (18)** years of age, and that
 25 lacks serious literary, artistic, political, or scientific value commits
 26 possession of child pornography, a Class D felony.
 27 (d) Subsections (b) and (c) do not apply to a bona fide school,
 28 museum, or public library that qualifies for certain property tax
 29 exemptions under IC 6-1.1-10, or to an employee of such a school,
 30 museum, or public library acting within the scope of the employee's
 31 employment when the possession of the listed materials is for
 32 legitimate scientific or educational purposes.
 33 (e) It is a defense to a prosecution under this section that:
 34 (1) the person is a school employee; and
 35 (2) the acts constituting the elements of the offense were
 36 performed solely within the scope of the person's employment as
 37 a school employee.
 38 (f) Except as provided in subsection (g), it is a defense to a
 39 prosecution under subsection (b)(1), subsection (b)(2), or subsection
 40 (c) if all of the following apply:
 41 (1) A cellular telephone, another wireless or cellular
 42 communications device, or a social networking web site was used

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- 1 to possess, produce, or disseminate the image.
- 2 (2) The defendant is not more than four (4) years older or younger
- 3 than the person who is depicted in the image or who received the
- 4 image.
- 5 (3) The relationship between the defendant and the person who
- 6 received the image or who is depicted in the image was a dating
- 7 relationship or an ongoing personal relationship. For purposes of
- 8 this subdivision, the term "ongoing personal relationship" does
- 9 not include a family relationship.
- 10 (4) The crime was committed by a person less than twenty-two
- 11 (22) years of age.
- 12 (5) The person receiving the image or who is depicted in the
- 13 image acquiesced in the defendant's conduct.
- 14 (g) The defense to a prosecution described in subsection (f) does not
- 15 apply if:
 - 16 (1) the person who receives the image disseminates it to a person
 - 17 other than the person:
 - 18 (A) who sent the image; or
 - 19 (B) who is depicted in the image;
 - 20 (2) the image is of a person other than the person who sent the
 - 21 image or received the image; or
 - 22 (3) the dissemination of the image violates:
 - 23 (A) a protective order to prevent domestic or family violence
 - 24 issued under IC 34-26-5 (or, if the order involved a family or
 - 25 household member, under IC 34-26-2 or IC 34-4-5.1-5 before
 - 26 their repeal);
 - 27 (B) an ex parte protective order issued under IC 34-26-5 (or,
 - 28 if the order involved a family or household member, an
 - 29 emergency order issued under IC 34-26-2 or IC 34-4-5.1
 - 30 before their repeal);
 - 31 (C) a workplace violence restraining order issued under
 - 32 IC 34-26-6;
 - 33 (D) a no contact order in a dispositional decree issued under
 - 34 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or
 - 35 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an
 - 36 order issued under IC 31-32-13 (or IC 31-6-7-14 before its
 - 37 repeal) that orders the person to refrain from direct or indirect
 - 38 contact with a child in need of services or a delinquent child;
 - 39 (E) a no contact order issued as a condition of pretrial release,
 - 40 including release on bail or personal recognizance, or pretrial
 - 41 diversion, and including a no contact order issued under
 - 42 IC 35-33-8-3.6;

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- 1 (F) a no contact order issued as a condition of probation;
- 2 (G) a protective order to prevent domestic or family violence
- 3 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2
- 4 before their repeal);
- 5 (H) a protective order to prevent domestic or family violence
- 6 issued under IC 31-14-16-1 in a paternity action;
- 7 (I) a no contact order issued under IC 31-34-25 in a child in
- 8 need of services proceeding or under IC 31-37-25 in a juvenile
- 9 delinquency proceeding;
- 10 (J) an order issued in another state that is substantially similar
- 11 to an order described in clauses (A) through (I);
- 12 (K) an order that is substantially similar to an order described
- 13 in clauses (A) through (I) and is issued by an Indian:
- 14 (i) tribe;
- 15 (ii) band;
- 16 (iii) pueblo;
- 17 (iv) nation; or
- 18 (v) organized group or community, including an Alaska
- 19 Native village or regional or village corporation as defined
- 20 in or established under the Alaska Native Claims Settlement
- 21 Act (43 U.S.C. 1601 et seq.);
- 22 that is recognized as eligible for the special programs and
- 23 services provided by the United States to Indians because of
- 24 their special status as Indians;
- 25 (L) an order issued under IC 35-33-8-3.2; or
- 26 (M) an order issued under IC 35-38-1-30.

27 SECTION 39. IC 35-42-4-11, AS AMENDED BY P.L.216-2007,
 28 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2013]: Sec. 11. (a) As used in this section, and except as
 30 provided in subsection (d), "offender against children" means a person
 31 required to register as a sex or violent offender under IC 11-8-8 who
 32 has been:

- 33 (1) found to be a sexually violent predator under IC 35-38-1-7.5;
- 34 or
- 35 (2) convicted of one (1) or more of the following offenses:
- 36 (A) Child molesting (IC 35-42-4-3).
- 37 (B) Child exploitation (IC 35-42-4-4(b)).
- 38 (C) Child solicitation (IC 35-42-4-6).
- 39 (D) Child seduction (IC 35-42-4-7).
- 40 (E) Kidnapping (IC 35-42-3-2), if the victim is less than
- 41 eighteen (18) years of age, ~~and the person is not the child's~~
- 42 ~~parent or guardian.~~ **unless the court finds that the offense**

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- 1 **was not committed for a sexual purpose.**
 2 (F) Attempt to commit or conspiracy to commit an offense
 3 listed in clauses (A) through (E).
 4 (G) An offense in another jurisdiction that is substantially
 5 similar to an offense described in clauses (A) through (F).
 6 A person is an offender against children by operation of law if the
 7 person meets the conditions described in subdivision (1) or (2) at any
 8 time.
 9 (b) As used in this section, "reside" means to spend more than three
 10 (3) nights in:
 11 (1) a residence; or
 12 (2) if the person does not reside in a residence, a particular
 13 location;
 14 in any thirty (30) day period.
 15 (c) An offender against children who knowingly or intentionally:
 16 (1) resides within one thousand (1,000) feet of:
 17 (A) school property, not including property of an institution
 18 providing post-secondary education;
 19 (B) a youth program center; or
 20 (C) a public park; or
 21 (2) establishes a residence within one (1) mile of the residence of
 22 the victim of the offender's sex offense;
 23 commits a sex offender residency offense, a Class D felony.
 24 (d) This subsection does not apply to an offender against children
 25 who has two (2) or more unrelated convictions for an offense described
 26 in subsection (a). A person who is an offender against children may
 27 petition the court to consider whether the person should no longer be
 28 considered an offender against children. The person may file a petition
 29 under this subsection not earlier than ten (10) years after the person is
 30 released from incarceration (**or, if the person is not incarcerated, not**
 31 **earlier than ten (10) years after the person is released from**
 32 **probation.) or parole, whichever occurs last.** A person may file a
 33 petition under this subsection not more than one (1) time per year. A
 34 court may dismiss a petition filed under this subsection or conduct a
 35 hearing to determine if the person should no longer be considered an
 36 offender against children. If the court conducts a hearing, the court
 37 shall appoint two (2) psychologists or psychiatrists who have expertise
 38 in criminal behavioral disorders to evaluate the person and testify at the
 39 hearing. After conducting the hearing and considering the testimony of
 40 the two (2) psychologists or psychiatrists, the court shall determine
 41 whether the person should no longer be considered an offender against
 42 children. If a court finds that the person should no longer be considered

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1 an offender against children, the court shall send notice to the
 2 department of correction that the person is no longer considered an
 3 offender against children.

4 SECTION 40. IC 35-42-4-12, AS ADDED BY P.L.119-2008,
 5 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2013]: Sec. 12. (a) This section does not apply to a person to
 7 whom all of the following apply:

8 (1) The person is not more than:

9 (A) four (4) years older than the victim if the offense was
 10 committed after June 30, 2007; or

11 (B) five (5) years older than the victim if the offense was
 12 committed before July 1, 2007.

13 (2) The relationship between the person and the victim was a
 14 dating relationship or an ongoing personal relationship. The term
 15 "ongoing personal relationship" does not include a family
 16 relationship.

17 (3) The crime:

18 (A) was not committed by a person who is at least twenty-one
 19 (21) years of age;

20 (B) was not committed by using or threatening the use of
 21 deadly force;

22 (C) was not committed while armed with a deadly weapon;

23 (D) did not result in serious bodily injury;

24 (E) was not facilitated by furnishing the victim, without the
 25 victim's knowledge, with a drug (as defined in
 26 IC 16-42-19-2(1)) or a controlled substance (as defined in
 27 IC 35-48-1-9) or knowing that the victim was furnished with
 28 the drug or controlled substance without the victim's
 29 knowledge; and

30 (F) was not committed by a person having a position of
 31 authority or substantial influence over the victim.

32 (b) This section applies only to a person required to register as a sex
 33 or violent offender under IC 11-8-8 who has been:

34 (1) found to be a sexually violent predator under IC 35-38-1-7.5;
 35 or

36 (2) convicted of one (1) or more of the following offenses:

37 (A) Child molesting (IC 35-42-4-3).

38 (B) Child exploitation (IC 35-42-4-4(b)).

39 (C) Possession of child pornography (IC 35-42-4-4(c)).

40 (D) Vicarious sexual gratification (IC 35-42-4-5(a) or
 41 IC 35-42-4-5(b)).

42 (E) Sexual conduct in the presence of a minor

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- 1 (IC 35-42-4-5(c)).
 2 (F) Child solicitation (IC 35-42-4-6).
 3 (G) Child seduction (IC 35-42-4-7).
 4 (H) Kidnapping (IC 35-42-3-2), if the victim is less than
 5 eighteen (18) years of age, ~~and the person is not the child's~~
 6 ~~parent or guardian.~~ **unless the court finds that the offense**
 7 **was not committed for a sexual purpose.**
 8 (I) Attempt to commit or conspiracy to commit an offense
 9 listed in clauses (A) through (H).
 10 (J) An offense in another jurisdiction that is substantially
 11 similar to an offense described in clauses (A) through (H).
 12 (c) As used in this section, "instant messaging or chat room
 13 program" means a software program that requires a person to register
 14 or create an account, a username, or a password to become a member
 15 or registered user of the program and allows two (2) or more members
 16 or authorized users to communicate over the Internet in real time using
 17 typed text. The term does not include an electronic mail program or
 18 message board program.
 19 (d) As used in this section, "social networking web site" means an
 20 Internet web site that:
 21 (1) facilitates the social introduction between two (2) or more
 22 persons;
 23 (2) requires a person to register or create an account, a username,
 24 or a password to become a member of the web site and to
 25 communicate with other members;
 26 (3) allows a member to create a web page or a personal profile;
 27 and
 28 (4) provides a member with the opportunity to communicate with
 29 another person.
 30 The term does not include an electronic mail program or message
 31 board program.
 32 (e) A person described in subsection (b) who knowingly or
 33 intentionally uses:
 34 (1) a social networking web site; or
 35 (2) an instant messaging or chat room program;
 36 that the offender knows allows a person who is less than eighteen (18)
 37 years of age to access or use the web site or program commits a sex
 38 offender Internet offense, a Class A misdemeanor. However, the
 39 offense is a Class D felony if the person has a prior unrelated
 40 conviction under this section.
 41 (f) It is a defense to a prosecution under this section that the person:
 42 (1) did not know that the web site or program allowed a person

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1 who is less than eighteen (18) years of age to access or use the
2 web site or program; and

3 (2) upon discovering that the web site or program allows a person
4 who is less than eighteen (18) years of age to access or use the
5 web site or program, immediately ceased further use or access of
6 the web site or program.

7 SECTION 41. IC 35-47-4-5, AS AMENDED BY P.L.126-2012,
8 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2013]: Sec. 5. (a) As used in this section, "serious violent
10 felon" means a person who has been convicted of:

11 (1) committing a serious violent felony in:

12 (A) Indiana; or

13 (B) any other jurisdiction in which the elements of the crime
14 for which the conviction was entered are substantially similar
15 to the elements of a serious violent felony; or

16 (2) attempting to commit or conspiring to commit a serious
17 violent felony in:

18 (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;
19 or

20 (B) any other jurisdiction in which the elements of the crime
21 for which the conviction was entered are substantially similar
22 to the elements of attempting to commit or conspiring to
23 commit a serious violent felony.

24 (b) As used in this section, "serious violent felony" means:

25 (1) murder (IC 35-42-1-1);

26 (2) voluntary manslaughter (IC 35-42-1-3);

27 (3) reckless homicide not committed by means of a vehicle
28 (IC 35-42-1-5);

29 (4) battery as a:

30 (A) Class A felony (IC 35-42-2-1(a)(5));

31 (B) Class B felony (IC 35-42-2-1(a)(4)); or

32 (C) Class C felony (IC 35-42-2-1(a)(3));

33 (5) aggravated battery (IC 35-42-2-1.5);

34 (6) kidnapping (IC 35-42-3-2);

35 (7) criminal confinement (IC 35-42-3-3);

36 (8) rape (IC 35-42-4-1);

37 (9) criminal deviate conduct (IC 35-42-4-2) (**repealed**);

38 (10) child molesting (IC 35-42-4-3);

39 (11) sexual battery as a Class C felony (IC 35-42-4-8);

40 (12) robbery (IC 35-42-5-1);

41 (13) carjacking (IC 35-42-5-2);

42 (14) arson as a Class A felony or Class B felony

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- 1 (IC 35-43-1-1(a));
- 2 (15) burglary as a Class A felony or Class B felony
- 3 (IC 35-43-2-1);
- 4 (16) assisting a criminal as a Class C felony (IC 35-44.1-2-5);
- 5 (17) resisting law enforcement as a Class B felony or Class C
- 6 felony (IC 35-44.1-3-1);
- 7 (18) escape as a Class B felony or Class C felony
- 8 (IC 35-44.1-3-4);
- 9 (19) trafficking with an inmate as a Class C felony
- 10 (IC 35-44.1-3-5);
- 11 (20) criminal gang intimidation (IC 35-45-9-4);
- 12 (21) stalking as a Class B felony or Class C felony
- 13 (IC 35-45-10-5);
- 14 (22) incest (IC 35-46-1-3);
- 15 (23) dealing in or manufacturing cocaine or a narcotic drug
- 16 (IC 35-48-4-1);
- 17 (24) dealing in methamphetamine (IC 35-48-4-1.1);
- 18 (25) dealing in a schedule I, II, or III controlled substance
- 19 (IC 35-48-4-2);
- 20 (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- 21 or
- 22 (27) dealing in a schedule V controlled substance (IC 35-48-4-4).

23 (c) A serious violent felon who knowingly or intentionally possesses
 24 a firearm commits unlawful possession of a firearm by a serious violent
 25 felon, a Class B felony.

26 SECTION 42. IC 35-49-3-1 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. A person who
 28 knowingly or intentionally:

- 29 (1) sends or brings into Indiana obscene matter for sale or
- 30 distribution; or
- 31 (2) offers to distribute, distributes, or exhibits to another person
- 32 obscene matter;

33 commits a Class A misdemeanor. However, the offense is a Class D
 34 felony if the obscene matter depicts or describes sexual conduct
 35 involving any person who is or appears to be under ~~sixteen (16)~~
 36 **eighteen (18)** years of age.

37 SECTION 43. IC 35-49-3-2 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. A person who
 39 knowingly or intentionally engages in, participates in, manages,
 40 produces, sponsors, presents, exhibits, photographs, films, or
 41 videotapes any obscene performance commits a Class A misdemeanor.
 42 However, the offense is a Class D felony if the obscene performance

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1 depicts or describes sexual conduct involving any person who is or
2 appears to be under ~~sixteen (16)~~ **eighteen (18)** years of age.

3 SECTION 44. IC 35-50-1-2, AS AMENDED BY P.L.125-2012,
4 SECTION 416, AND AS AMENDED BY P.L.126-2012, SECTION
5 59, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) As used in this section,
7 "crime of violence" means the following:

- 8 (1) Murder (IC 35-42-1-1).
- 9 (2) Attempted murder (IC 35-41-5-1).
- 10 (3) Voluntary manslaughter (IC 35-42-1-3).
- 11 (4) Involuntary manslaughter (IC 35-42-1-4).
- 12 (5) Reckless homicide (IC 35-42-1-5).
- 13 (6) Aggravated battery (IC 35-42-2-1.5).
- 14 (7) Kidnapping (IC 35-42-3-2).
- 15 (8) Rape (IC 35-42-4-1).
- 16 (9) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- 17 (10) Child molesting (IC 35-42-4-3).
- 18 (11) Sexual misconduct with a minor as a Class A felony under
- 19 IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).
- 20 (12) Robbery as a Class A felony or a Class B felony
- 21 (IC 35-42-5-1).
- 22 (13) Burglary as a Class A felony or a Class B felony
- 23 (IC 35-43-2-1).
- 24 (14) Operating a vehicle while intoxicated causing death
- 25 (IC 9-30-5-5).
- 26 (15) Operating a ~~motor~~ vehicle while intoxicated causing serious
- 27 bodily injury to another person (IC 9-30-5-4).
- 28 (16) Resisting law enforcement as a felony (~~IC 35-44-3-3~~;
29 ~~IC 35-44.1-3-1~~).

30 (b) As used in this section, "episode of criminal conduct" means
31 offenses or a connected series of offenses that are closely related in
32 time, place, and circumstance.

33 (c) Except as provided in subsection (d) or (e), the court shall
34 determine whether terms of imprisonment shall be served concurrently
35 or consecutively. The court may consider the:

- 36 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
- 37 (2) mitigating circumstances in IC 35-38-1-7.1(b);

38 in making a determination under this subsection. The court may order
39 terms of imprisonment to be served consecutively even if the sentences
40 are not imposed at the same time. However, except for crimes of
41 violence, the total of the consecutive terms of imprisonment, exclusive
42 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to

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1 which the defendant is sentenced for felony convictions arising out of
 2 an episode of criminal conduct shall not exceed the advisory sentence
 3 for a felony which is one (1) class of felony higher than the most
 4 serious of the felonies for which the person has been convicted.

5 (d) If, after being arrested for one (1) crime, a person commits
 6 another crime:

7 (1) before the date the person is discharged from probation,
 8 parole, or a term of imprisonment imposed for the first crime; or

9 (2) while the person is released:

10 (A) upon the person's own recognizance; or

11 (B) on bond;

12 the terms of imprisonment for the crimes shall be served consecutively,
 13 regardless of the order in which the crimes are tried and sentences are
 14 imposed.

15 (e) If the factfinder determines under IC 35-50-2-11 that a person
 16 used a firearm in the commission of the offense for which the person
 17 was convicted, the term of imprisonment for the underlying offense and
 18 the additional term of imprisonment imposed under IC 35-50-2-11
 19 must be served consecutively.

20 SECTION 45. IC 35-50-2-2, AS AMENDED BY P.L.126-2012,
 21 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2013]: Sec. 2. (a) The court may suspend any part of a
 23 sentence for a felony, except as provided in this section or in section
 24 2.1 of this chapter.

25 (b) Except as provided in subsection (i), with respect to the
 26 following crimes listed in this subsection, the court may suspend only
 27 that part of the sentence that is in excess of the minimum sentence,
 28 unless the court has approved placement of the offender in a forensic
 29 diversion program under IC 11-12-3.7:

30 (1) The crime committed was a Class A felony or Class B felony
 31 and the person has a prior unrelated felony conviction.

32 (2) The crime committed was a Class C felony and less than seven
 33 (7) years have elapsed between the date the person was
 34 discharged from probation, imprisonment, or parole, whichever
 35 is later, for a prior unrelated felony conviction and the date the
 36 person committed the Class C felony for which the person is
 37 being sentenced.

38 (3) The crime committed was a Class D felony and less than three
 39 (3) years have elapsed between the date the person was
 40 discharged from probation, imprisonment, or parole, whichever
 41 is later, for a prior unrelated felony conviction and the date the
 42 person committed the Class D felony for which the person is

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1 being sentenced. However, the court may suspend the minimum
 2 sentence for the crime only if the court orders home detention
 3 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
 4 sentence specified for the crime under this chapter.

5 (4) The felony committed was:

6 (A) murder (IC 35-42-1-1);

7 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
 8 causing death;

9 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;

10 (D) kidnapping (IC 35-42-3-2);

11 (E) confinement (IC 35-42-3-3) with a deadly weapon;

12 (F) rape (IC 35-42-4-1) as a Class A felony;

13 (G) criminal deviate conduct (IC 35-42-4-2) (**repealed**) as a
 14 Class A felony;

15 (H) except as provided in subsection (i), child molesting
 16 (IC 35-42-4-3) as a Class A or Class B felony, unless:

17 (i) the felony committed was child molesting as a Class B
 18 felony;

19 (ii) the victim was not less than twelve (12) years old at the
 20 time the offense was committed;

21 (iii) the person is not more than four (4) years older than the
 22 victim, or more than five (5) years older than the victim if
 23 the relationship between the person and the victim was a
 24 dating relationship or an ongoing personal relationship (not
 25 including a family relationship);

26 (iv) the person did not have a position of authority or
 27 substantial influence over the victim; and

28 (v) the person has not committed another sex offense (as
 29 defined in IC 11-8-8-5.2) (including a delinquent act that
 30 would be a sex offense if committed by an adult) against any
 31 other person;

32 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
 33 with a deadly weapon;

34 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
 35 injury;

36 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
 37 or with a deadly weapon;

38 (L) resisting law enforcement (IC 35-44.1-3-1) with a deadly
 39 weapon;

40 (M) escape (IC 35-44.1-3-4) with a deadly weapon;

41 (N) rioting (IC 35-45-1-2) with a deadly weapon;

42 (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the

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1 court finds the person possessed a firearm (as defined in
 2 IC 35-47-1-5) at the time of the offense, or the person
 3 delivered or intended to deliver to a person under eighteen
 4 (18) years of age at least three (3) years junior to the person
 5 and was on a school bus or within one thousand (1,000) feet
 6 of:

- 7 (i) school property;
- 8 (ii) a public park;
- 9 (iii) a family housing complex; or
- 10 (iv) a youth program center;

11 (P) dealing in methamphetamine (IC 35-48-4-1.1) if the court
 12 finds the person possessed a firearm (as defined in
 13 IC 35-47-1-5) at the time of the offense, or the person
 14 delivered or intended to deliver the methamphetamine pure or
 15 adulterated to a person under eighteen (18) years of age at
 16 least three (3) years junior to the person and was on a school
 17 bus or within one thousand (1,000) feet of:

- 18 (i) school property;
- 19 (ii) a public park;
- 20 (iii) a family housing complex; or
- 21 (iv) a youth program center;

22 (Q) dealing in a schedule I, II, or III controlled substance
 23 (IC 35-48-4-2) if the court finds the person possessed a firearm
 24 (as defined in IC 35-47-1-5) at the time of the offense, or the
 25 person delivered or intended to deliver to a person under
 26 eighteen (18) years of age at least three (3) years junior to the
 27 person and was on a school bus or within one thousand (1,000)
 28 feet of:

- 29 (i) school property;
- 30 (ii) a public park;
- 31 (iii) a family housing complex; or
- 32 (iv) a youth program center;

33 (R) an offense under IC 9-30-5 (operating a vehicle while
 34 intoxicated) and the person who committed the offense has
 35 accumulated at least two (2) prior unrelated convictions under
 36 IC 9-30-5;

37 (S) an offense under IC 9-30-5-5(b) (operating a vehicle while
 38 intoxicated causing death);

39 (T) aggravated battery (IC 35-42-2-1.5); or

40 (U) disarming a law enforcement officer (IC 35-44.1-3-2).

41 (c) Except as provided in subsection (e), whenever the court
 42 suspends a sentence for a felony, it shall place the person on probation

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1 under IC 35-38-2 for a fixed period to end not later than the date that
2 the maximum sentence that may be imposed for the felony will expire.

3 (d) The minimum sentence for a person convicted of voluntary
4 manslaughter may not be suspended unless the court finds at the
5 sentencing hearing that the crime was not committed by means of a
6 deadly weapon.

7 (e) Whenever the court suspends that part of the sentence of a sex
8 or violent offender (as defined in IC 11-8-8-5) that is suspendible under
9 subsection (b), the court shall place the sex or violent offender on
10 probation under IC 35-38-2 for not more than ten (10) years.

11 (f) An additional term of imprisonment imposed under
12 IC 35-50-2-11 may not be suspended.

13 (g) A term of imprisonment imposed under IC 35-47-10-6 or
14 IC 35-47-10-7 may not be suspended if the commission of the offense
15 was knowing or intentional.

16 (h) A term of imprisonment imposed for an offense under
17 IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be
18 suspended.

19 (i) If a person is:

- 20 (1) convicted of child molesting (IC 35-42-4-3) as a Class A
21 felony against a victim less than twelve (12) years of age; and
22 (2) at least twenty-one (21) years of age;

23 the court may suspend only that part of the sentence that is in excess of
24 thirty (30) years.

25 SECTION 46. IC 35-50-2-9, AS AMENDED BY P.L.99-2007,
26 SECTION 213, IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) The state may seek either a
28 death sentence or a sentence of life imprisonment without parole for
29 murder by alleging, on a page separate from the rest of the charging
30 instrument, the existence of at least one (1) of the aggravating
31 circumstances listed in subsection (b). In the sentencing hearing after
32 a person is convicted of murder, the state must prove beyond a
33 reasonable doubt the existence of at least one (1) of the aggravating
34 circumstances alleged. However, the state may not proceed against a
35 defendant under this section if a court determines at a pretrial hearing
36 under IC 35-36-9 that the defendant is an individual with mental
37 retardation.

38 (b) The aggravating circumstances are as follows:

- 39 (1) The defendant committed the murder by intentionally killing
40 the victim while committing or attempting to commit any of the
41 following:

42 (A) Arson (IC 35-43-1-1).

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- 1 (B) Burglary (IC 35-43-2-1).
 2 (C) Child molesting (IC 35-42-4-3).
 3 (D) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
 4 (E) Kidnapping (IC 35-42-3-2).
 5 (F) Rape (IC 35-42-4-1).
 6 (G) Robbery (IC 35-42-5-1).
 7 (H) Carjacking (IC 35-42-5-2).
 8 (I) Criminal gang activity (IC 35-45-9-3).
 9 (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
 10 (2) The defendant committed the murder by the unlawful
 11 detonation of an explosive with intent to injure person or damage
 12 property.
 13 (3) The defendant committed the murder by lying in wait.
 14 (4) The defendant who committed the murder was hired to kill.
 15 (5) The defendant committed the murder by hiring another person
 16 to kill.
 17 (6) The victim of the murder was a corrections employee,
 18 probation officer, parole officer, community corrections worker,
 19 home detention officer, fireman, judge, or law enforcement
 20 officer, and either:
 21 (A) the victim was acting in the course of duty; or
 22 (B) the murder was motivated by an act the victim performed
 23 while acting in the course of duty.
 24 (7) The defendant has been convicted of another murder.
 25 (8) The defendant has committed another murder, at any time,
 26 regardless of whether the defendant has been convicted of that
 27 other murder.
 28 (9) The defendant was:
 29 (A) under the custody of the department of correction;
 30 (B) under the custody of a county sheriff;
 31 (C) on probation after receiving a sentence for the commission
 32 of a felony; or
 33 (D) on parole;
 34 at the time the murder was committed.
 35 (10) The defendant dismembered the victim.
 36 (11) The defendant burned, mutilated, or tortured the victim while
 37 the victim was alive.
 38 (12) The victim of the murder was less than twelve (12) years of
 39 age.
 40 (13) The victim was a victim of any of the following offenses for
 41 which the defendant was convicted:
 42 (A) Battery as a Class D felony or as a Class C felony under

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- 1 IC 35-42-2-1.
 2 (B) Kidnapping (IC 35-42-3-2).
 3 (C) Criminal confinement (IC 35-42-3-3).
 4 (D) A sex crime under IC 35-42-4.
- 5 (14) The victim of the murder was listed by the state or known by
 6 the defendant to be a witness against the defendant and the
 7 defendant committed the murder with the intent to prevent the
 8 person from testifying.
- 9 (15) The defendant committed the murder by intentionally
 10 discharging a firearm (as defined in IC 35-47-1-5):
 11 (A) into an inhabited dwelling; or
 12 (B) from a vehicle.
- 13 (16) The victim of the murder was pregnant and the murder
 14 resulted in the intentional killing of a fetus that has attained
 15 viability (as defined in IC 16-18-2-365).
- 16 (c) The mitigating circumstances that may be considered under this
 17 section are as follows:
 18 (1) The defendant has no significant history of prior criminal
 19 conduct.
 20 (2) The defendant was under the influence of extreme mental or
 21 emotional disturbance when the murder was committed.
 22 (3) The victim was a participant in or consented to the defendant's
 23 conduct.
 24 (4) The defendant was an accomplice in a murder committed by
 25 another person, and the defendant's participation was relatively
 26 minor.
 27 (5) The defendant acted under the substantial domination of
 28 another person.
 29 (6) The defendant's capacity to appreciate the criminality of the
 30 defendant's conduct or to conform that conduct to the
 31 requirements of law was substantially impaired as a result of
 32 mental disease or defect or of intoxication.
 33 (7) The defendant was less than eighteen (18) years of age at the
 34 time the murder was committed.
 35 (8) Any other circumstances appropriate for consideration.
- 36 (d) If the defendant was convicted of murder in a jury trial, the jury
 37 shall reconvene for the sentencing hearing. If the trial was to the court,
 38 or the judgment was entered on a guilty plea, the court alone shall
 39 conduct the sentencing hearing. The jury or the court may consider all
 40 the evidence introduced at the trial stage of the proceedings, together
 41 with new evidence presented at the sentencing hearing. The court shall
 42 instruct the jury concerning the statutory penalties for murder and any

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1 other offenses for which the defendant was convicted, the potential for
 2 consecutive or concurrent sentencing, and the availability of good time
 3 credit and clemency. The court shall instruct the jury that, in order for
 4 the jury to recommend to the court that the death penalty or life
 5 imprisonment without parole should be imposed, the jury must find at
 6 least one (1) aggravating circumstance beyond a reasonable doubt as
 7 described in subsection (l) and shall provide a special verdict form for
 8 each aggravating circumstance alleged. The defendant may present any
 9 additional evidence relevant to:

10 (1) the aggravating circumstances alleged; or

11 (2) any of the mitigating circumstances listed in subsection (c).

12 (e) For a defendant sentenced after June 30, 2002, except as
 13 provided by IC 35-36-9, if the hearing is by jury, the jury shall
 14 recommend to the court whether the death penalty or life imprisonment
 15 without parole, or neither, should be imposed. The jury may
 16 recommend:

17 (1) the death penalty; or

18 (2) life imprisonment without parole;

19 only if it makes the findings described in subsection (l). If the jury
 20 reaches a sentencing recommendation, the court shall sentence the
 21 defendant accordingly. After a court pronounces sentence, a
 22 representative of the victim's family and friends may present a
 23 statement regarding the impact of the crime on family and friends. The
 24 impact statement may be submitted in writing or given orally by the
 25 representative. The statement shall be given in the presence of the
 26 defendant.

27 (f) If a jury is unable to agree on a sentence recommendation after
 28 reasonable deliberations, the court shall discharge the jury and proceed
 29 as if the hearing had been to the court alone.

30 (g) If the hearing is to the court alone, except as provided by
 31 IC 35-36-9, the court shall:

32 (1) sentence the defendant to death; or

33 (2) impose a term of life imprisonment without parole;

34 only if it makes the findings described in subsection (l).

35 (h) If a court sentences a defendant to death, the court shall order
 36 the defendant's execution to be carried out not later than one (1) year
 37 and one (1) day after the date the defendant was convicted. The
 38 supreme court has exclusive jurisdiction to stay the execution of a
 39 death sentence. If the supreme court stays the execution of a death
 40 sentence, the supreme court shall order a new date for the defendant's
 41 execution.

42 (i) If a person sentenced to death by a court files a petition for

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1 post-conviction relief, the court, not later than ninety (90) days after the
 2 date the petition is filed, shall set a date to hold a hearing to consider
 3 the petition. If a court does not, within the ninety (90) day period, set
 4 the date to hold the hearing to consider the petition, the court's failure
 5 to set the hearing date is not a basis for additional post-conviction
 6 relief. The attorney general shall answer the petition for post-conviction
 7 relief on behalf of the state. At the request of the attorney general, a
 8 prosecuting attorney shall assist the attorney general. The court shall
 9 enter written findings of fact and conclusions of law concerning the
 10 petition not later than ninety (90) days after the date the hearing
 11 concludes. However, if the court determines that the petition is without
 12 merit, the court may dismiss the petition within ninety (90) days
 13 without conducting a hearing under this subsection.

14 (j) A death sentence is subject to automatic review by the supreme
 15 court. The review, which shall be heard under rules adopted by the
 16 supreme court, shall be given priority over all other cases. The supreme
 17 court's review must take into consideration all claims that the:

- 18 (1) conviction or sentence was in violation of the:
 - 19 (A) Constitution of the State of Indiana; or
 - 20 (B) Constitution of the United States;
- 21 (2) sentencing court was without jurisdiction to impose a
 22 sentence; and
- 23 (3) sentence:
 - 24 (A) exceeds the maximum sentence authorized by law; or
 - 25 (B) is otherwise erroneous.

26 If the supreme court cannot complete its review by the date set by the
 27 sentencing court for the defendant's execution under subsection (h), the
 28 supreme court shall stay the execution of the death sentence and set a
 29 new date to carry out the defendant's execution.

30 (k) A person who has been sentenced to death and who has
 31 completed state post-conviction review proceedings may file a written
 32 petition with the supreme court seeking to present new evidence
 33 challenging the person's guilt or the appropriateness of the death
 34 sentence if the person serves notice on the attorney general. The
 35 supreme court shall determine, with or without a hearing, whether the
 36 person has presented previously undiscovered evidence that
 37 undermines confidence in the conviction or the death sentence. If
 38 necessary, the supreme court may remand the case to the trial court for
 39 an evidentiary hearing to consider the new evidence and its effect on
 40 the person's conviction and death sentence. The supreme court may not
 41 make a determination in the person's favor nor make a decision to
 42 remand the case to the trial court for an evidentiary hearing without



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1 first providing the attorney general with an opportunity to be heard on
2 the matter.

3 (l) Before a sentence may be imposed under this section, the jury,
4 in a proceeding under subsection (e), or the court, in a proceeding
5 under subsection (g), must find that:

6 (1) the state has proved beyond a reasonable doubt that at least
7 one (1) of the aggravating circumstances listed in subsection (b)
8 exists; and

9 (2) any mitigating circumstances that exist are outweighed by the
10 aggravating circumstance or circumstances.

11 SECTION 47. IC 35-50-6-3.3, AS AMENDED BY P.L.147-2012,
12 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2013]: Sec. 3.3. (a) In addition to any credit time a person
14 earns under subsection (b) or section 3 of this chapter, a person earns
15 credit time if the person:

16 (1) is in credit Class I;

17 (2) has demonstrated a pattern consistent with rehabilitation; and

18 (3) successfully completes requirements to obtain one (1) of the
19 following:

20 (A) A general educational development (GED) diploma under
21 IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person
22 has not previously obtained a high school diploma.

23 (B) Except as provided in subsection (n), a high school
24 diploma, if the person has not previously obtained a general
25 educational development (GED) diploma.

26 (C) An associate's degree from an approved postsecondary
27 educational institution (as defined under IC 21-7-13-6(a)).

28 (D) A bachelor's degree from an approved postsecondary
29 educational institution (as defined under IC 21-7-13-6(a)).

30 (b) In addition to any credit time that a person earns under
31 subsection (a) or section 3 of this chapter, a person may earn credit
32 time if, while confined by the department of correction, the person:

33 (1) is in credit Class I;

34 (2) demonstrates a pattern consistent with rehabilitation; and

35 (3) successfully completes requirements to obtain at least one (1)
36 of the following:

37 (A) A certificate of completion of a career and technical
38 education program approved by the department of correction.

39 (B) A certificate of completion of a substance abuse program
40 approved by the department of correction.

41 (C) A certificate of completion of a literacy and basic life
42 skills program approved by the department of correction.



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1 (D) A certificate of completion of a reformatory program
 2 approved by the department of correction.
 3 (c) The department of correction shall establish admissions criteria
 4 and other requirements for programs available for earning credit time
 5 under subsection (b). A person may not earn credit time under both
 6 subsections (a) and (b) for the same program of study.
 7 (d) The amount of credit time a person may earn under this section
 8 is the following:
 9 (1) Six (6) months for completion of a state of Indiana general
 10 educational development (GED) diploma under IC 20-20-6
 11 (before its repeal) or IC 22-4.1-18.
 12 (2) One (1) year for graduation from high school.
 13 (3) One (1) year for completion of an associate's degree.
 14 (4) Two (2) years for completion of a bachelor's degree.
 15 (5) Not more than a total of six (6) months of credit, as
 16 determined by the department of correction, for the completion of
 17 one (1) or more career and technical education programs
 18 approved by the department of correction.
 19 (6) Not more than a total of six (6) months of credit, as
 20 determined by the department of correction, for the completion of
 21 one (1) or more substance abuse programs approved by the
 22 department of correction.
 23 (7) Not more than a total of six (6) months credit, as determined
 24 by the department of correction, for the completion of one (1) or
 25 more literacy and basic life skills programs approved by the
 26 department of correction.
 27 (8) Not more than a total of six (6) months credit time, as
 28 determined by the department of correction, for completion of one
 29 (1) or more reformatory programs approved by the department of
 30 correction. However, a person who is serving a sentence for an
 31 offense listed under IC 11-8-8-4.5 may not earn credit time under
 32 this subdivision.
 33 However, a person who does not have a substance abuse problem that
 34 qualifies the person to earn credit in a substance abuse program may
 35 earn not more than a total of twelve (12) months of credit, as
 36 determined by the department of correction, for the completion of one
 37 (1) or more career and technical education programs approved by the
 38 department of correction. If a person earns more than six (6) months of
 39 credit for the completion of one (1) or more career and technical
 40 education programs, the person is ineligible to earn credit for the
 41 completion of one (1) or more substance abuse programs.
 42 (e) Credit time earned by a person under this section is subtracted

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1 from the release date that would otherwise apply to the person after
2 subtracting all other credit time earned by the person.

3 (f) A person does not earn credit time under subsection (a) unless
4 the person completes at least a portion of the degree requirements after
5 June 30, 1993.

6 (g) A person does not earn credit time under subsection (b) unless
7 the person completes at least a portion of the program requirements
8 after June 30, 1999.

9 (h) Credit time earned by a person under subsection (a) for a
10 diploma or degree completed before July 1, 1999, shall be subtracted
11 from:

12 (1) the release date that would otherwise apply to the person after
13 subtracting all other credit time earned by the person, if the
14 person has not been convicted of an offense described in
15 subdivision (2); or

16 (2) the period of imprisonment imposed on the person by the
17 sentencing court, if the person has been convicted of one (1) of
18 the following crimes:

19 (A) Rape (IC 35-42-4-1).

20 (B) Criminal deviate conduct (IC 35-42-4-2) (**repealed**).

21 (C) Child molesting (IC 35-42-4-3).

22 (D) Child exploitation (IC 35-42-4-4(b)).

23 (E) Vicarious sexual gratification (IC 35-42-4-5).

24 (F) Child solicitation (IC 35-42-4-6).

25 (G) Child seduction (IC 35-42-4-7).

26 (H) Sexual misconduct with a minor as a Class A felony, Class
27 B felony, or Class C felony (IC 35-42-4-9).

28 (I) Incest (IC 35-46-1-3).

29 (J) Sexual battery (IC 35-42-4-8).

30 (K) Kidnapping (IC 35-42-3-2), if the victim is less than
31 eighteen (18) years of age, **unless the court finds that the**
32 **offense was not committed for a sexual purpose.**

33 (L) Criminal confinement (IC 35-42-3-3), if the victim is less
34 than eighteen (18) years of age, **unless the court finds that**
35 **the offense was not committed for a sexual purpose.**

36 (M) An attempt or a conspiracy to commit a crime listed in
37 clauses (A) through (L).

38 (i) The maximum amount of credit time a person may earn under
39 this section is the lesser of:

40 (1) four (4) years; or

41 (2) one-third (1/3) of the person's total applicable credit time.

42 (j) Credit time earned under this section by an offender serving a

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1 sentence for a felony against a person under IC 35-42 or for a crime
 2 listed in IC 11-8-8-5 shall be reduced to the extent that application of
 3 the credit time would otherwise result in:

4 (1) postconviction release (as defined in IC 35-40-4-6); or

5 (2) assignment of the person to a community transition program;
 6 in less than forty-five (45) days after the person earns the credit time.

7 (k) A person may earn credit time for multiple degrees at the same
 8 education level under subsection (d) only in accordance with guidelines
 9 approved by the department of correction. The department of
 10 correction may approve guidelines for proper sequence of education
 11 degrees under subsection (d).

12 (l) A person may not earn credit time:

13 (1) for a general educational development (GED) diploma if the
 14 person has previously earned a high school diploma; or

15 (2) for a high school diploma if the person has previously earned
 16 a general educational development (GED) diploma.

17 (m) A person may not earn credit time under this section if the
 18 person:

19 (1) commits an offense listed in IC 11-8-8-4.5 while the person is
 20 required to register as a sex or violent offender under IC 11-8-8-7;
 21 and

22 (2) is committed to the department of correction after being
 23 convicted of the offense listed in IC 11-8-8-4.5.

24 (n) For a person to earn credit time under subsection (a)(3)(B) for
 25 successfully completing the requirements for a high school diploma
 26 through correspondence courses, each correspondence course must be
 27 approved by the department before the person begins the
 28 correspondence course. The department may approve a correspondence
 29 course only if the entity administering the course is recognized and
 30 accredited by the department of education in the state where the entity
 31 is located.

32 SECTION 48. IC 36-2-13-5.5, AS AMENDED BY P.L.216-2007,
 33 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2013]: Sec. 5.5. (a) The sheriffs shall jointly establish and
 35 maintain an Indiana sex and violent offender registry web site, known
 36 as the Indiana sex and violent offender registry, to inform the general
 37 public about the identity, location, and appearance of every sex or
 38 violent offender ~~residing within Indiana.~~ **who is required to register**
 39 **under IC 11-8-8-7.** The web site must provide information regarding
 40 each sex or violent offender, organized by county of residence. The
 41 web site shall be updated at least daily.

42 (b) The **public portal of the** Indiana sex and violent offender

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1 registry **Internet** web site must include the following information for
 2 every sex or violent offender who is required to register under
 3 **IC 11-8-8-7:**

4 (1) A recent photograph of every sex or violent offender who has
 5 registered with a sheriff after the effective date of this chapter.

6 (2) The home address of every sex or violent offender.

7 (3) The information required under IC 11-8-8-8.

8 (1) The sex or violent offender's full name, alias, any name by
 9 which the sex or violent offender was previously known, sex,
 10 race, height, weight, hair color, eye color, any scars, marks, or
 11 tattoos, principal residence address, and any other address
 12 where the sex or violent offender spends more than seven (7)
 13 nights in a fourteen (14) day period.

14 (2) A description of the offense for which the sex or violent
 15 offender was convicted, the date of conviction, the county of
 16 the conviction, the state of the conviction, the cause number
 17 of the conviction, and the sentence imposed.

18 (3) If the person is required to register under
 19 IC 11-8-8-7(a)(2) or IC 11-8-8-7(a)(3), the address of each of
 20 the sex or violent offender's employers in Indiana, the address
 21 of each campus or location where the sex or violent offender
 22 is enrolled in school in Indiana, and the address where the sex
 23 or violent offender stays or intends to stay while in Indiana.

24 (4) A recent photograph of the sex or violent offender.

25 (5) If the sex or violent offender is a sexually violent predator,
 26 that the sex or violent offender is a sexually violent predator.

27 (c) The local law enforcement authority (as defined in
 28 **IC 11-8-8-2**) shall:

29 Every time a sex or violent offender registers, but at least once per
 30 year, the sheriff shall:

31 (1) photograph the sex or violent offender **in accordance with**
 32 **IC 11-8-8-14**; and

33 (2) determine whether the sex or violent offender's fingerprints
 34 are on file:

35 (A) in Indiana; or

36 (B) with the Federal Bureau of Investigation.

37 If it appears that the sex or violent offender's fingerprints are not on file
 38 as described in subdivision (2), the ~~sheriff~~ **local law enforcement**
 39 **authority** shall fingerprint the sex or violent offender and transmit a
 40 copy of the fingerprints to the state police department. The ~~sheriff~~ **local**
 41 **law enforcement authority** shall place the photograph described in
 42 subdivision (1) on the **public portal of the** Indiana sex and violent

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- 1 offender registry **Internet** web site.
- 2 (d) The photograph of a sex or violent offender described in
- 3 subsection (c) must meet the following requirements:
- 4 (1) The photograph must be full face, front view, with a plain
- 5 white or off-white background.
- 6 (2) The image of the offender's face, measured from the bottom
- 7 of the chin to the top of the head, must fill at least seventy-five
- 8 percent (75%) of the photograph.
- 9 (3) The photograph must be in color.
- 10 (4) The photograph must show the offender dressed in normal
- 11 street attire, without a hat or headgear that obscures the hair or
- 12 hairline.
- 13 (5) If the offender normally and consistently wears prescription
- 14 glasses, a hearing device, wig, or a similar article, the photograph
- 15 must show the offender wearing those items. A photograph may
- 16 not include dark glasses or nonprescription glasses with tinted
- 17 lenses unless the offender can provide a medical certificate
- 18 demonstrating that tinted lenses are required for medical reasons.
- 19 (6) The photograph must have sufficient resolution to permit the
- 20 offender to be easily identified by a person accessing the Indiana
- 21 sex and violent offender registry web site.
- 22 (e) The Indiana sex and violent offender registry web site may be
- 23 funded from:
- 24 (1) the jail commissary fund (IC 36-8-10-21);
- 25 (2) a grant from the criminal justice institute; and
- 26 (3) any other source, subject to the approval of the county fiscal
- 27 body.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1053, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 10, line 13, after "offender" insert "**materially**".

and when so amended that said bill do pass.

(Reference is to HB 1053 as introduced.)

MCMILLIN, Chair

Committee Vote: yeas 11, nays 2.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1053 be amended to read as follows:

Page 22, between lines 31 and 32, begin a new paragraph and insert:
 "SECTION 13 IC 35-42-4-4, AS AMENDED BY P.L.6-2012, SECTION 226, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) The following definitions apply throughout this section:

- (1) "Disseminate" means to transfer possession for free or for a consideration.
- (2) "Matter" has the same meaning as in IC 35-49-1-3.
- (3) "Performance" has the same meaning as in IC 35-49-1-7.
- (4) "Sexual conduct" means sexual intercourse, deviate sexual conduct, exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sadomasochistic abuse, sexual intercourse or deviate sexual conduct with an animal, or any fondling or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.

(b) A person who knowingly or intentionally:

- (1) manages, produces, sponsors, presents, exhibits, photographs, films, videotapes, or creates a digitized image of any performance or incident that includes sexual conduct by a child under eighteen (18) years of age;
- (2) disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for

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dissemination or exhibition matter that depicts or describes sexual conduct by a child under eighteen (18) years of age; or

(3) makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age;

commits child exploitation, a Class C felony.

(c) A person who knowingly or intentionally possesses:

- (1) a picture;
- (2) a drawing;
- (3) a photograph;
- (4) a negative image;
- (5) undeveloped film;
- (6) a motion picture;
- (7) a videotape;
- (8) a digitized image; or
- (9) any pictorial representation;

that depicts or describes sexual conduct by a child who the person knows is less than ~~sixteen (16)~~ **eighteen (18)** years of age or who appears to be less than ~~sixteen (16)~~ **eighteen (18)** years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a Class D felony.

(d) Subsections (b) and (c) do not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials is for legitimate scientific or educational purposes.

(e) It is a defense to a prosecution under this section that:

- (1) the person is a school employee; and
- (2) the acts constituting the elements of the offense were performed solely within the scope of the person's employment as a school employee.

(f) Except as provided in subsection (g), it is a defense to a prosecution under subsection (b)(1), subsection (b)(2), or subsection (c) if all of the following apply:

- (1) A cellular telephone, another wireless or cellular communications device, or a social networking web site was used to possess, produce, or disseminate the image.
- (2) The defendant is not more than four (4) years older or younger than the person who is depicted in the image or who received the image.

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- (3) The relationship between the defendant and the person who received the image or who is depicted in the image was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term "ongoing personal relationship" does not include a family relationship.
- (4) The crime was committed by a person less than twenty-two (22) years of age.
- (5) The person receiving the image or who is depicted in the image acquiesced in the defendant's conduct.
- (g) The defense to a prosecution described in subsection (f) does not apply if:
- (1) the person who receives the image disseminates it to a person other than the person:
 - (A) who sent the image; or
 - (B) who is depicted in the image;
 - (2) the image is of a person other than the person who sent the image or received the image; or
 - (3) the dissemination of the image violates:
 - (A) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);
 - (B) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
 - (C) a workplace violence restraining order issued under IC 34-26-6;
 - (D) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
 - (E) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6;
 - (F) a no contact order issued as a condition of probation;
 - (G) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);

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- (H) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;
- (I) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
- (J) an order issued in another state that is substantially similar to an order described in clauses (A) through (I);
- (K) an order that is substantially similar to an order described in clauses (A) through (I) and is issued by an Indian:
 - (i) tribe;
 - (ii) band;
 - (iii) pueblo;
 - (iv) nation; or
 - (v) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);
 that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;
- (L) an order issued under IC 35-33-8-3.2; or
- (M) an order issued under IC 35-38-1-30."

Page 26, between lines 15 and 16, begin a new paragraph and insert:
 "SECTION 16. IC 35-49-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. A person who knowingly or intentionally:

- (1) sends or brings into Indiana obscene matter for sale or distribution; or
- (2) offers to distribute, distributes, or exhibits to another person obscene matter;

commits a Class A misdemeanor. However, the offense is a Class D felony if the obscene matter depicts or describes sexual conduct involving any person who is or appears to be under ~~sixteen (16)~~ **eighteen (18)** years of age.

SECTION 17. IC 35-49-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. A person who knowingly or intentionally engages in, participates in, manages, produces, sponsors, presents, exhibits, photographs, films, or videotapes any obscene performance commits a Class A misdemeanor. However, the offense is a Class D felony if the obscene performance

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depicts or describes sexual conduct involving any person who is or appears to be under ~~sixteen (16)~~ **eighteen (18)** years of age."

Renumber all SECTIONS consecutively.

(Reference is to HB 1053 as printed February 15, 2013.)

GOODIN

HOUSE MOTION

Mr. Speaker: I move that House Bill 1053 be amended to read as follows:

Page 2, delete lines 38 through 42, begin a new line block indented and insert:

"(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, ~~and the person who kidnapped the victim is not the victim's parent or guardian.~~ **unless the court finds that the offense was not committed for a sexual purpose.**

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, ~~and the person who confined or removed the victim is not the victim's parent or guardian.~~ **unless the court finds that the offense was not committed for a sexual purpose."**

Page 3, delete lines 1 through 9.

Page 4, delete lines 27 through 38, begin a new line block indented and insert:

"(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, ~~and the person who kidnapped the victim is not the victim's parent or guardian.~~ **unless the court finds that the offense was not committed for a sexual purpose.**

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, ~~and the person who confined or removed the victim is not the victim's parent or guardian.~~ **unless the court finds that the offense was not committed for a sexual purpose."**

Page 23, delete lines 3 through 8, begin a new line double block indented and insert:

"(E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, ~~and the person is not the child's parent or guardian.~~ **unless the court finds that the offense was not committed for a sexual purpose."**



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Page 25, delete lines 11 through 16, begin a new line double block indented and insert:

"(H) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, ~~and the person is not the child's parent or guardian:~~ **unless the court finds that the offense was not committed for a sexual purpose.**"

Page 28, delete lines 35 through 42, begin a new line double block indented and insert:

"(K) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, **unless the court finds that the offense was not committed for a sexual purpose.**

(L) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, **unless the court finds that the offense was not committed for a sexual purpose.**"

Page 29, delete lines 1 through 2.

(Reference is to HB 1053 as printed February 15, 2013.)

STEUERWALD

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1053, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-13-2-14.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14.7. A person employed, appointed, or under contract with a state agency, who works with or around children, shall be dismissed (after the appropriate pre-deprivation procedure has occurred) if that person is, or has ever been, convicted of any of the following:

- (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
- (2) Criminal deviate conduct (IC 35-42-4-2) **(for an act committed before its repeal)**, if the victim is less than eighteen (18) years of age.
- (3) Child molesting (IC 35-42-4-3).



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- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A or **Class B** felony (IC 35-42-4-9).
- (9) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

SECTION 2. IC 10-13-3-27, AS AMENDED BY P.L.48-2012, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release a limited criminal history to or allow inspection of a limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:

- (1) has applied for employment with a noncriminal justice organization or individual;
- (2) has:
 - (A) applied for a license or is maintaining a license; and
 - (B) provided criminal history data as required by law to be provided in connection with the license;
- (3) is a candidate for public office or a public official;
- (4) is in the process of being apprehended by a law enforcement agency;
- (5) is placed under arrest for the alleged commission of a crime;
- (6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;
- (7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
- (8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
- (9) is currently residing in a location designated by the department of child services (established by IC 31-25-1-1) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;
- (10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;
- (11) is being investigated for welfare fraud by an investigator of

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the division of family resources or a county office of the division of family resources;

(12) is being sought by the parent locator service of the child support bureau of the department of child services;

(13) is or was required to register as a sex or violent offender under IC 11-8-8;

(14) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2) (**repealed**), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

(K) Attempt under IC 35-41-5-1 to commit an offense listed in clauses (A) through (J).

(L) Conspiracy under IC 35-41-5-2 to commit an offense listed in clauses (A) through (J).

(M) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under clauses (A) through (J);

(15) is identified as a possible perpetrator of child abuse or neglect in an assessment conducted by the department of child services under IC 31-33-8; or

(16) is:

(A) a parent, guardian, or custodian of a child; or

(B) an individual who is at least eighteen (18) years of age and resides in the home of the parent, guardian, or custodian; with whom the department of child services or a county probation department has a case plan, dispositional decree, or permanency plan approved under IC 31-34 or IC 31-37 that provides for reunification following an out-of-home placement.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the

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(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

- (1) Federally chartered or insured banking institutions.
- (2) Officials of state and local government for any of the following purposes:
 - (A) Employment with a state or local governmental entity.
 - (B) Licensing.
- (3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who knowingly or intentionally uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor."

Page 2, line 18, after "(IC 35-42-4-2)" delete "." and insert "**(repealed)**".

Page 4, line 2, after "(IC 35-42-4-2)" delete "." and insert "**(repealed)**".

Page 19, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 14. IC 12-24-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. To provide greater security for patients, visitors, and employees, the division may not employ in a state institution an individual who has been convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4).
- (5) Sexual misconduct with a minor as a Class A or **Class B** felony (IC 35-42-4-9).

SECTION 15. IC 16-21-8-1, AS AMENDED BY P.L.41-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) A hospital licensed under IC 16-21-2 that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. The provision of services may not be dependent on a victim's reporting to, or cooperating with, law enforcement.

(b) For the purposes of this chapter, the following crimes are considered sex crimes:

- (1) Rape (IC 35-42-4-1).

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- (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- (3) Child molesting (IC 35-42-4-3).
- (4) Vicarious sexual gratification (IC 35-42-4-5).
- (5) Sexual battery (IC 35-42-4-8).
- (6) Sexual misconduct with a minor (IC 35-42-4-9).
- (7) Child solicitation (IC 35-42-4-6).
- (8) Child seduction (IC 35-42-4-7).
- (9) Incest (IC 35-46-1-3).

(c) Payment for services under this section shall be processed in accordance with rules adopted by the victim services division of the Indiana criminal justice institute.

SECTION 16. IC 16-25-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) A person may not own or operate a hospice program if the person has:

- (1) been convicted of rape (IC 35-42-4-1);
- (2) been convicted of criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
- (3) been convicted of exploitation of a dependent or an endangered adult (IC 35-46-1-12);
- (4) had a judgment entered against the person for failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13); or
- (5) been convicted of theft (IC 35-43-4), if the person's conviction for theft occurred less than ten (10) years before the date of submission by the person of an application for licensure or approval as a hospice program under IC 16-25-3.

(b) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.

SECTION 17. IC 16-25-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) Except as provided in subsection (b), a person who owns or operates a hospice program may not employ an individual or allow a volunteer to provide hospice services if that individual's or volunteer's limited criminal history indicates that the individual or volunteer has:

- (1) been convicted of rape (IC 35-42-4-1);
- (2) been convicted of criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
- (3) been convicted of exploitation of an endangered adult (IC 35-46-1-12);
- (4) had a judgment entered against the individual for failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13); or



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(5) been convicted of theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the individual's employment application date.

(b) A hospice program may not employ an individual or allow a volunteer to provide hospice services for more than twenty-one (21) calendar days without receipt of that individual's or volunteer's limited criminal history required by section 2 of this chapter, unless the Indiana central repository for criminal history information under IC 10-13-3 is solely responsible for failing to provide the individual's or volunteer's limited criminal history to the hospice program within the time required under this subsection.

SECTION 18. IC 16-27-2-3, AS AMENDED BY P.L.212-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A person may not operate a home health agency or a personal services agency if the person has been convicted of any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- (3) Exploitation of an endangered adult (IC 35-46-1-12).
- (4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).
- (5) Theft (IC 35-43-4), if the person's conviction for theft occurred less than ten (10) years before the date of submission by the person of an application for licensure as a home health agency under IC 16-27-1 or as a personal services agency under IC 16-27-4.

(b) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.

SECTION 19. IC 16-27-2-5, AS AMENDED BY P.L.84-2010, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 may not employ a person to provide services in a patient's or client's temporary or permanent residence if that person's limited criminal history, national criminal history background check, or expanded criminal history check indicates that the person has been convicted of any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- (3) Exploitation of an endangered adult (IC 35-46-1-12).
- (4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).

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(5) Theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the person's employment application date.

(6) A felony that is substantially equivalent to a felony listed in:
 (A) subdivisions (1) through (4); or
 (B) subdivision (5), if the conviction for theft occurred less than ten (10) years before the person's employment application date;

for which the conviction was entered in another state.

(b) A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) calendar days without receipt of that person's limited criminal history, national criminal history background check, or expanded criminal history check, required by section 4 of this chapter, unless the state police department, the Federal Bureau of Investigation under IC 10-13-3-39, or the private agency providing the expanded criminal history check is responsible for failing to provide the person's limited criminal history, national criminal history background check, or expanded criminal history check to the home health agency or personal services agency within the time required under this subsection.

SECTION 20. IC 20-28-5-8, AS AMENDED BY P.L.78-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) This section applies when a prosecuting attorney knows that a licensed employee of a public school or a nonpublic school has been convicted of an offense listed in subsection (c). The prosecuting attorney shall immediately give written notice of the conviction to the following:

- (1) The state superintendent.
- (2) Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority if a nonpublic school employs the licensed employee.
- (3) The presiding officer of the governing body of the school corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.

(b) The superintendent of a school corporation, presiding officer of the governing body, or equivalent authority for a nonpublic school shall immediately notify the state superintendent when the individual knows that a current or former licensed employee of the public school or nonpublic school has been convicted of an offense listed in subsection (c), or when the governing body or equivalent authority for a nonpublic

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school takes any final action in relation to an employee who engaged in any offense listed in subsection (c).

(c) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of any of the following felonies:

- (1) Kidnapping (IC 35-42-3-2).
- (2) Criminal confinement (IC 35-42-3-3).
- (3) Rape (IC 35-42-4-1).
- (4) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- (5) Child molesting (IC 35-42-4-3).
- (6) Child exploitation (IC 35-42-4-4(b)).
- (7) Vicarious sexual gratification (IC 35-42-4-5).
- (8) Child solicitation (IC 35-42-4-6).
- (9) Child seduction (IC 35-42-4-7).
- (10) Sexual misconduct with a minor (IC 35-42-4-9).
- (11) Incest (IC 35-46-1-3).
- (12) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- (14) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (15) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- (18) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic drug (IC 35-48-4-10(b)).
- (19) Possession of child pornography (IC 35-42-4-4(c)).
- (20) Homicide (IC 35-42-1).
- (21) Voluntary manslaughter (IC 35-42-1-3).
- (22) Reckless homicide (IC 35-42-1-5).
- (23) Battery as any of the following:
 - (A) A Class A felony (IC 35-42-2-1(a)(5)).
 - (B) A Class B felony (IC 35-42-2-1(a)(4)).
 - (C) A Class C felony (IC 35-42-2-1(a)(3)).
- (24) Aggravated battery (IC 35-42-2-1.5).
- (25) Robbery (IC 35-42-5-1).
- (26) Carjacking (IC 35-42-5-2).
- (27) Arson as a Class A felony or a Class B felony (IC 35-43-1-1(a)).
- (28) Burglary as a Class A felony or a Class B felony (IC 35-43-2-1).

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(29) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (28).

(30) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (28).

(d) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of a federal offense or an offense in another state that is comparable to a felony listed in subsection (c).

(e) A license may be suspended by the state superintendent as specified in IC 20-28-7.5.

(f) The department shall develop a data base of information on school corporation employees who have been reported to the department under this section.

SECTION 21. IC 22-5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. The employment contract of a person who:

- (1) works with children; and
- (2) is convicted of:
 - (A) rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age;
 - (B) criminal deviate conduct (IC 35-42-4-2) (**repealed**), if the victim is less than eighteen (18) years of age;
 - (C) child molesting (IC 35-42-4-3);
 - (D) child exploitation (IC 35-42-4-4(b));
 - (E) vicarious sexual gratification (IC 35-42-4-5);
 - (F) child solicitation (IC 35-42-4-6);
 - (G) child seduction (IC 35-42-4-7); or
 - (H) incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age;

may be canceled by the person's employer.

SECTION 22. IC 29-3-7-7, AS ADDED BY P.L.131-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. A court may not appoint a person to serve as the guardian or permit a person to continue to serve as a guardian if the person:

- (1) is a sexually violent predator (as described in IC 35-38-1-7.5);
- (2) was at least eighteen (18) years of age at the time of the offense and was convicted of child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:
 - (A) by using or threatening the use of deadly force;
 - (B) while armed with a deadly weapon; or

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(C) that resulted in serious bodily injury; or
 (3) was less than eighteen (18) years of age at the time of the offense and was convicted as an adult of:

(A) an offense described in:

- (i) IC 35-42-4-1;
- (ii) IC 35-42-4-2 **(before its repeal)**;
- (iii) IC 35-42-4-3 as a Class A or Class B felony;
- (iv) IC 35-42-4-5(a)(1);
- (v) IC 35-42-4-5(a)(2);
- (vi) IC 35-42-4-5(a)(3);
- (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
- (viii) IC 35-42-4-5(b)(2); or
- (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

(B) an attempt or conspiracy to commit a crime listed in clause (A); or

(C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

SECTION 23. IC 31-19-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. A court shall determine that consent to adoption is not required from a parent if:

(1) the parent is convicted of and incarcerated at the time of the filing of a petition for adoption for:

- (A) murder (IC 35-42-1-1);
- (B) causing suicide (IC 35-42-1-2);
- (C) voluntary manslaughter (IC 35-42-1-3);
- (D) rape (IC 35-42-4-1);
- (E) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
- (F) child molesting as a Class A or Class B felony (IC 35-42-4-3);
- (G) incest as a Class B felony (IC 35-46-1-3);
- (H) neglect of a dependent as a Class B felony (IC 35-46-1-4);
- (I) battery of a child as a Class C felony (IC 35-42-2-1(a)(3));
- (J) battery as a Class A felony (IC 35-42-2-1(a)(5)) or Class B felony (IC 35-42-2-1(a)(4)); or
- (K) an attempt under IC 35-41-5-1 to commit an offense described in clauses (A) through (J);

(2) the child or the child's sibling, half-blood sibling, or step-sibling of the parent's current marriage is the victim of the offense; and

(3) after notice to the parent and a hearing, the court determines that dispensing with the parent's consent to adoption is in the

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child's best interests.

SECTION 24. IC 31-30-1-2.5, AS AMENDED BY P.L.131-2009, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child or permit a person to continue to serve as a guardian or custodian of a child if the person:

- (1) is a sexually violent predator (as described in IC 35-38-1-7.5);
- (2) was at least eighteen (18) years of age at the time of the offense and committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

- (A) by using or threatening the use of deadly force;
- (B) while armed with a deadly weapon; or
- (C) that resulted in serious bodily injury; or

- (3) was less than eighteen (18) years of age at the time of the offense but was tried and convicted as an adult of:

- (A) an offense described in:
 - (i) IC 35-42-4-1;
 - (ii) IC 35-42-4-2 **(before its repeal)**;
 - (iii) IC 35-42-4-3 as a Class A or Class B felony;
 - (iv) IC 35-42-4-5(a)(1);
 - (v) IC 35-42-4-5(a)(2);
 - (vi) IC 35-42-4-5(a)(3);
 - (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
 - (viii) IC 35-42-4-5(b)(2); or
 - (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;
- (B) an attempt or conspiracy to commit a crime listed in clause (A); or
- (C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

SECTION 25. IC 31-30-1-4, AS AMENDED BY P.L.67-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

- (1) IC 35-41-5-1(a) (attempted murder);
- (2) IC 35-42-1-1 (murder);
- (3) IC 35-42-3-2 (kidnapping);
- (4) IC 35-42-4-1 (rape);
- (5) IC 35-42-4-2 (criminal deviate conduct) **(repealed)**;
- (6) IC 35-42-5-1 (robbery) if:
 - (A) the robbery was committed while armed with a deadly

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weapon; or

(B) the robbery results in bodily injury or serious bodily injury;

(7) IC 35-42-5-2 (carjacking);

(8) IC 35-45-9-3 (criminal gang activity);

(9) IC 35-45-9-4 (criminal gang intimidation);

(10) IC 35-47-2-1 (carrying a handgun without a license), if charged as a felony;

(11) IC 35-47-10 (children and firearms), if charged as a felony;

(12) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or

(13) any offense that may be joined under IC 35-34-1-9(a)(2) with any crime listed in subdivisions (1) through (12);

if the individual was at least sixteen (16) years of age at the time of the alleged violation.

(b) The juvenile court does not have jurisdiction for an alleged violation of manufacturing or dealing in cocaine or a narcotic drug (IC 35-48-4-1), dealing in methamphetamine (IC 35-48-4-1.1), dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2), or dealing in a schedule IV controlled substance (IC 35-48-4-3), if:

(1) the individual has a prior unrelated conviction under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or

(2) the individual has a prior unrelated juvenile adjudication that, if committed by an adult, would be a crime under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;

and the individual was at least sixteen (16) years of age at the time of the alleged violation.

(c) Once an individual described in subsection (a) or (b) has been charged with any crime listed in subsection (a) or (b), the court having adult criminal jurisdiction shall retain jurisdiction over the case even if the individual pleads guilty to or is convicted of a lesser included offense. A plea of guilty to or a conviction of a lesser included offense does not vest jurisdiction in the juvenile court.

SECTION 26. IC 31-34-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2 (**repealed**);

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

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- (F) IC 35-42-4-9;
 - (G) IC 35-45-4-1;
 - (H) IC 35-45-4-2;
 - (I) IC 35-46-1-3; or
 - (J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I); and
- (2) the child needs care, treatment, or rehabilitation that:
- (A) the child is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.
- (b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:
- (1) the child lives in the same household as another child who is the victim of a sex offense under:
 - (A) IC 35-42-4-1;
 - (B) IC 35-42-4-2 (**repealed**);
 - (C) IC 35-42-4-3;
 - (D) IC 35-42-4-4;
 - (E) IC 35-42-4-7;
 - (F) IC 35-42-4-9;
 - (G) IC 35-45-4-1;
 - (H) IC 35-45-4-2;
 - (I) IC 35-46-1-3; or
 - (J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);
 - (2) the child lives in the same household as the adult who committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2;
 - (3) the child needs care, treatment, or rehabilitation that:
 - (A) the child is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court; and
 - (4) a caseworker assigned to provide services to the child:
 - (A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or
 - (B) determines that a program of informal adjustment or other

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family or rehabilitative services is inappropriate.

SECTION 27. IC 31-35-3-4, AS AMENDED BY P.L.146-2008, SECTION 618, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. If:

- (1) an individual is convicted of the offense of:
 - (A) murder (IC 35-42-1-1);
 - (B) causing suicide (IC 35-42-1-2);
 - (C) voluntary manslaughter (IC 35-42-1-3);
 - (D) involuntary manslaughter (IC 35-42-1-4);
 - (E) rape (IC 35-42-4-1);
 - (F) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
 - (G) child molesting (IC 35-42-4-3);
 - (H) child exploitation (IC 35-42-4-4);
 - (I) sexual misconduct with a minor (IC 35-42-4-9); or
 - (J) incest (IC 35-46-1-3); and
- (2) the victim of the offense:
 - (A) was less than sixteen (16) years of age at the time of the offense; and
 - (B) is:
 - (i) the individual's biological or adoptive child; or
 - (ii) the child of a spouse of the individual who has committed the offense;

the attorney for the department, the child's guardian ad litem, or the court appointed special advocate may file a petition with the juvenile or probate court to terminate the parent-child relationship of the individual who has committed the offense with the victim of the offense, the victim's siblings, or any biological or adoptive child of that individual.

SECTION 28. IC 31-37-19-9, AS AMENDED BY P.L.173-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) After a juvenile court makes a determination under IC 11-8-8-5, the juvenile court may, in addition to an order under section 6 of this chapter, and if the child:

- (1) is at least thirteen (13) years of age and less than sixteen (16) years of age; and
- (2) committed an act that, if committed by an adult, would be:
 - (A) murder (IC 35-42-1-1);
 - (B) kidnapping (IC 35-42-3-2);
 - (C) rape (IC 35-42-4-1);
 - (D) criminal deviate conduct (IC 35-42-4-2) **(repealed)**; or



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(E) robbery (IC 35-42-5-1) if the robbery was committed while armed with a deadly weapon or if the robbery resulted in bodily injury or serious bodily injury;
 order wardship of the child to the department of correction for a fixed period that is not longer than the date the child becomes eighteen (18) years of age, subject to IC 11-10-2-10.

(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section (or IC 31-6-4-15.9(b)(8) before its repeal).

SECTION 29. IC 33-37-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. The court shall order a person to pay a child abuse prevention fee of one hundred dollars (\$100) to the clerk in each criminal action in which:

- (1) the person is found to have committed the offense of:
 - (A) murder (IC 35-42-1-1);
 - (B) causing suicide (IC 35-42-1-2);
 - (C) voluntary manslaughter (IC 35-42-1-3);
 - (D) reckless homicide (IC 35-42-1-5);
 - (E) battery (IC 35-42-2-1);
 - (F) rape (IC 35-42-4-1);
 - (G) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
 - (H) child molesting (IC 35-42-4-3);
 - (I) child exploitation (IC 35-42-4-4);
 - (J) vicarious sexual gratification (IC 35-42-4-5);
 - (K) child solicitation (IC 35-42-4-6);
 - (L) incest (IC 35-46-1-3);
 - (M) neglect of a dependent (IC 35-46-1-4);
 - (N) child selling (IC 35-46-1-4); or
 - (O) child seduction (IC 35-42-4-7); and
- (2) the victim of the offense is less than eighteen (18) years of age.

SECTION 30. IC 33-37-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 23. (a) This section applies to criminal actions.

(b) The court shall assess a sexual assault victims assistance fee of at least two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000) against an individual convicted in Indiana of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).

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- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual battery (IC 35-42-4-8).
- (9) Sexual misconduct with a minor as a Class A or Class B felony (IC 35-42-4-9).
- (10) Incest (IC 35-46-1-3).

SECTION 31. IC 33-39-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. A prosecuting attorney who charges a person with committing any of the following shall inform the person's employer of the charge, unless the prosecuting attorney determines that the person charged does not work with children:

- (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
- (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**, if the victim is less than eighteen (18) years of age.
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

SECTION 32. IC 35-31.5-2-216, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 216. "Offense relating to a criminal sexual act" means the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- (3) Child molesting (IC 35-42-4-3).
- (4) Child seduction (IC 35-42-4-7).
- (5) Prostitution (IC 35-45-4-2).
- (6) Patronizing a prostitute (IC 35-45-4-3).
- (7) Incest (IC 35-46-1-3).
- (8) Sexual misconduct with a minor under IC 35-42-4-9(a)."

Page 19, line 36, after "IC 35-42-4-2" delete ";" and insert "**(before its repeal);**".

Page 22, line 7, after "(IC 35-42-4-2)" delete "." and insert "**(repealed)**".

Page 22, between lines 23 and 24, begin a new paragraph and insert: "SECTION 34. IC 35-38-2-2.5, AS AMENDED BY P.L.216-2007,

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SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual battery (IC 35-42-4-8).
- (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- (10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:

- (A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or
- (B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or

(2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.

(e) An offender, while on probation or parole, may not establish a new residence within one (1) mile of the residence of the victim of the offender's sex offense unless the offender first obtains a waiver from the:

- (1) court, if the offender is placed on probation; or
- (2) parole board, if the offender is placed on parole;

for the change of address under subsection (f).

(f) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the offender is present and of which the prosecuting attorney has been notified, determines that:

- (1) the offender has successfully completed a sex offender

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- treatment program during the period of probation or parole;
- (2) the offender is in compliance with all terms of the offender's probation or parole; and
- (3) good cause exists to allow the offender to reside within one (1) mile of the residence of the victim of the offender's sex offense.

However, the court or parole board may not grant a waiver under this subsection if the offender is a sexually violent predator under IC 35-38-1-7.5 or if the offender is an offender against children under IC 35-42-4-11.

(g) If the court or parole board grants a waiver under subsection (f), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(h) The address of the victim of the offender's sex offense is confidential even if the court or parole board grants a waiver under subsection (f).

SECTION 35. IC 35-42-1-1, AS AMENDED BY P.L.1-2007, SECTION 230, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. A person who:

- (1) knowingly or intentionally kills another human being;
- (2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct (**under IC 35-42-4-2 before its repeal**), kidnapping, rape, robbery, human trafficking, promotion of human trafficking, sexual trafficking of a minor, or carjacking;
- (3) kills another human being while committing or attempting to commit:
 - (A) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
 - (B) dealing in or manufacturing methamphetamine (IC 35-48-4-1.1);
 - (C) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
 - (D) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
 - (E) dealing in a schedule V controlled substance; or
- (4) knowingly or intentionally kills a fetus that has attained viability (as defined in IC 16-18-2-365);

commits murder, a felony.

SECTION 36. IC 35-42-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Except as

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provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with a member of the opposite sex **or knowingly or intentionally causes another person to perform or submit to deviate sexual conduct** when:

- (1) the other person is compelled by force or imminent threat of force;
- (2) the other person is unaware that the sexual intercourse **or deviate sexual conduct** is occurring; or
- (3) the other person is so mentally disabled or deficient that consent to sexual intercourse **or deviate sexual conduct** cannot be given;

commits rape, a Class B felony.

(b) An offense described in subsection (a) is a Class A felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon;
- (3) it results in serious bodily injury to a person other than a defendant; or
- (4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

SECTION 37. IC 35-42-4-2 IS REPEALED [EFFECTIVE JULY 1, 2013]. Sec. 2: (a) A person who knowingly or intentionally causes another person to perform or submit to deviate sexual conduct when:

- (1) the other person is compelled by force or imminent threat of force;
- (2) the other person is unaware that the conduct is occurring; or
- (3) the other person is so mentally disabled or deficient that consent to the conduct cannot be given;

commits criminal deviate conduct, a Class B felony.

(b) An offense described in subsection (a) is a Class A felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon;
- (3) it results in serious bodily injury to any person other than a defendant; or
- (4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge."

Page 29, between lines 5 and 6, begin a new paragraph and insert:

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"SECTION 39. IC 35-47-4-5, AS AMENDED BY P.L.126-2012, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:

- (1) committing a serious violent felony in:
 - (A) Indiana; or
 - (B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or
- (2) attempting to commit or conspiring to commit a serious violent felony in:
 - (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2; or
 - (B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

- (1) murder (IC 35-42-1-1);
- (2) voluntary manslaughter (IC 35-42-1-3);
- (3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);
- (4) battery as a:
 - (A) Class A felony (IC 35-42-2-1(a)(5));
 - (B) Class B felony (IC 35-42-2-1(a)(4)); or
 - (C) Class C felony (IC 35-42-2-1(a)(3));
- (5) aggravated battery (IC 35-42-2-1.5);
- (6) kidnapping (IC 35-42-3-2);
- (7) criminal confinement (IC 35-42-3-3);
- (8) rape (IC 35-42-4-1);
- (9) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
- (10) child molesting (IC 35-42-4-3);
- (11) sexual battery as a Class C felony (IC 35-42-4-8);
- (12) robbery (IC 35-42-5-1);
- (13) carjacking (IC 35-42-5-2);
- (14) arson as a Class A felony or Class B felony (IC 35-43-1-1(a));
- (15) burglary as a Class A felony or Class B felony (IC 35-43-2-1);
- (16) assisting a criminal as a Class C felony (IC 35-44.1-2-5);
- (17) resisting law enforcement as a Class B felony or Class C felony (IC 35-44.1-3-1);

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- (18) escape as a Class B felony or Class C felony (IC 35-44.1-3-4);
- (19) trafficking with an inmate as a Class C felony (IC 35-44.1-3-5);
- (20) criminal gang intimidation (IC 35-45-9-4);
- (21) stalking as a Class B felony or Class C felony (IC 35-45-10-5);
- (22) incest (IC 35-46-1-3);
- (23) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
- (24) dealing in methamphetamine (IC 35-48-4-1.1);
- (25) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- or
- (27) dealing in a schedule V controlled substance (IC 35-48-4-4).

(c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Class B felony."

Page 29, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 41. IC 35-50-1-2, AS AMENDED BY P.L.125-2012, SECTION 416, AND AS AMENDED BY P.L.126-2012, SECTION 59, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) As used in this section, "crime of violence" means the following:

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Rape (IC 35-42-4-1).
- (9) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- (10) Child molesting (IC 35-42-4-3).
- (11) Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).
- (12) Robbery as a Class A felony or a Class B felony (IC 35-42-5-1).
- (13) Burglary as a Class A felony or a Class B felony (IC 35-43-2-1).
- (14) Operating a vehicle while intoxicated causing death



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(IC 9-30-5-5).

(15) Operating a ~~motor~~ vehicle while intoxicated causing serious bodily injury to another person (IC 9-30-5-4).

(16) Resisting law enforcement as a felony (~~IC 35-44-3-3~~);
(IC 35-44.1-3-1).

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the:

(1) aggravating circumstances in IC 35-38-1-7.1(a); and

(2) mitigating circumstances in IC 35-38-1-7.1(b);

in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the advisory sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.

(d) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or

(2) while the person is released:

(A) upon the person's own recognizance; or

(B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

(e) If the factfinder determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

SECTION 42. IC 35-50-2-2, AS AMENDED BY P.L.126-2012, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

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(b) Except as provided in subsection (i), with respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A felony or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) **(repealed)** as a Class A felony;

(H) except as provided in subsection (i), child molesting (IC 35-42-4-3) as a Class A or Class B felony, unless:

(i) the felony committed was child molesting as a Class B felony;

(ii) the victim was not less than twelve (12) years old at the time the offense was committed;

(iii) the person is not more than four (4) years older than the victim, or more than five (5) years older than the victim if the relationship between the person and the victim was a dating relationship or an ongoing personal relationship (not

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- including a family relationship);
- (iv) the person did not have a position of authority or substantial influence over the victim; and
- (v) the person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person;
- (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
- (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
- (K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
- (L) resisting law enforcement (IC 35-44.1-3-1) with a deadly weapon;
- (M) escape (IC 35-44.1-3-4) with a deadly weapon;
- (N) rioting (IC 35-45-1-2) with a deadly weapon;
- (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
- (i) school property;
 - (ii) a public park;
 - (iii) a family housing complex; or
 - (iv) a youth program center;
- (P) dealing in methamphetamine (IC 35-48-4-1.1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver the methamphetamine pure or adulterated to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
- (i) school property;
 - (ii) a public park;
 - (iii) a family housing complex; or
 - (iv) a youth program center;
- (Q) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the

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person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;
- (R) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;
- (S) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death);
- (T) aggravated battery (IC 35-42-2-1.5); or
- (U) disarming a law enforcement officer (IC 35-44.1-3-2).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of the sentence of a sex or violent offender (as defined in IC 11-8-8-5) that is suspendible under subsection (b), the court shall place the sex or violent offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be suspended.

(i) If a person is:

- (1) convicted of child molesting (IC 35-42-4-3) as a Class A felony against a victim less than twelve (12) years of age; and
- (2) at least twenty-one (21) years of age;

the court may suspend only that part of the sentence that is in excess of thirty (30) years.

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SECTION 43. IC 35-50-2-9, AS AMENDED BY P.L.99-2007, SECTION 213, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is an individual with mental retardation.

(b) The aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

- (A) Arson (IC 35-43-1-1).
- (B) Burglary (IC 35-43-2-1).
- (C) Child molesting (IC 35-42-4-3).
- (D) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- (E) Kidnapping (IC 35-42-3-2).
- (F) Rape (IC 35-42-4-1).
- (G) Robbery (IC 35-42-5-1).
- (H) Carjacking (IC 35-42-5-2).
- (I) Criminal gang activity (IC 35-45-9-3).
- (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure person or damage property.

(3) The defendant committed the murder by lying in wait.

(4) The defendant who committed the murder was hired to kill.

(5) The defendant committed the murder by hiring another person to kill.

(6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:

- (A) the victim was acting in the course of duty; or
- (B) the murder was motivated by an act the victim performed while acting in the course of duty.

(7) The defendant has been convicted of another murder.



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(8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.

(9) The defendant was:

- (A) under the custody of the department of correction;
- (B) under the custody of a county sheriff;
- (C) on probation after receiving a sentence for the commission of a felony; or
- (D) on parole;

at the time the murder was committed.

(10) The defendant dismembered the victim.

(11) The defendant burned, mutilated, or tortured the victim while the victim was alive.

(12) The victim of the murder was less than twelve (12) years of age.

(13) The victim was a victim of any of the following offenses for which the defendant was convicted:

- (A) Battery as a Class D felony or as a Class C felony under IC 35-42-2-1.
- (B) Kidnapping (IC 35-42-3-2).
- (C) Criminal confinement (IC 35-42-3-3).
- (D) A sex crime under IC 35-42-4.

(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):

- (A) into an inhabited dwelling; or
- (B) from a vehicle.

(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).

(c) The mitigating circumstances that may be considered under this section are as follows:

- (1) The defendant has no significant history of prior criminal conduct.
- (2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.
- (3) The victim was a participant in or consented to the defendant's conduct.
- (4) The defendant was an accomplice in a murder committed by

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another person, and the defendant's participation was relatively minor.

(5) The defendant acted under the substantial domination of another person.

(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of good time credit and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (1) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (1). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the

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representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole; only if it makes the findings described in subsection (l).

(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:

(A) Constitution of the State of Indiana; or

(B) Constitution of the United States;

(2) sentencing court was without jurisdiction to impose a sentence; and

(3) sentence:

(A) exceeds the maximum sentence authorized by law; or

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(B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.

(l) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:

- (1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and
- (2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances."

Page 31, line 34, after "(IC 35-42-4-2)" delete "." and insert **"(repealed)."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1053 as reprinted February 19, 2013.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 9, Nays 0.

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